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ABSTRACT

"Tribal Consultation Booklets" are the records and background materials of the meetings between Bureau of Indian Affairs (BIA) staff and tribal representatives, parents, school boards, and other interested parties in ten states, concerning potential changes or issues relating to Indian Education Programs. Such consultation meetings are held 2-3 times per year, with each meeting usually considering 4-7 topics. This document consists of records for the eight meetings held from January 1991 through March 1994, approximately a three-year period. Typical topics reported on are as follows: proposed regulations to establish standardized administrative procedures for operating and administering an educational program for Indian adults; proposed regulations to establish minimum program standards for the operation of early childhood development programs; proposed amendments that set out provisions by which dormitory standards may be waived and that require school children to be immunized against childhood diseases according to the regulations of the state where they attend school; identification of current and proposed advocacy activities for Indian students attending public schools, including activities carried out by tribes, the federal government, states, or organizations; proposed amendments to federal legislation that would expand tribally controlled school grants to include such educational programs as Johnson O'Malley, higher education scholarships, and adult education; proposed BIA policy supporting full inclusion of children with disabilities in the regular classroom; proposal to include the Indian School Equalization Program and tribally controlled community college funds in the Self-Governance Demonstration Project; proposed task force to assess the role of BIA in Alaska Native Education; proposed study of potential arrangements under which a tribe could construct an educational facility with a guaranteed annual lease payment from the BIA to pay back the costs of construction; and proposal to create a national association of tribal/BIA Johnson O'Malley program directors. (AA)

TRIBAL CONSULTATION BOOKLET



BUREAU OF INDIAN AFFAIRS

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JANUARY, 1991

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TRIBAL CONSULTATION BOOKLET

TABLE OF CONTENTS

Tribal Leader/School Board Letter	Page 0-0
Consultation Item #1	Pages 1-0 Through 1-19
Consultation Item #2	Pages 2-0 Through 2-21
Consultation Item #3	Pages 3-0 Through 3-39
Consultation Item #4	Pages 4-0 Through 4-3
Consultation Item #5	Pages 5-0 Through 5-1
Consultation Item #6	Pages 6-0 Through 6-7



IN REPLY REFER TO:

United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

WASHINGTON, D.C. 20245

OCT 23 1990

Dear Tribal Leader/School Board:

During the month of May, 1990, the Bureau conducted several consultation meetings across Indian country regarding education issues and program modifications under consideration by the Bureau. Even though the consultation package was received late by most of the tribes/participants, we received many worthwhile comments during the eleven meetings. The Office of Indian Education Programs (OIEP) will continue its consultation efforts by conducting eleven consultation meetings on January 23, 1991 across Indian country.

Consultation Process

To better manage the comments received during the consultation process, the OIEP is modifying its procedure for obtaining input from Indian country. Tribes and Bureau funded school boards will receive, via mail, a consultation booklet which includes six (6) consultation items/topics. The OIEP will supplement this mail out procedure by holding eleven (11) regional meetings to cover the same consultation package with Tribes, school boards, Indian organizations, parents, contractors and other interested parties. Tribes and school boards may want to attend the regional meetings before submitting their written comments. You are encouraged to provide written comments on each of the six (6) consultation items to the OIEP no later than February 26, 1991.

January, 1991 Consultation Booklet

Enclosed with this letter is the consultation booklet for the January, 1991 consultation effort. The consultation booklet contains a Table of Contents and six (6) individual items/topics. On the front of each consultation item is a summary information page which includes the consultation item/topic number, the potential change being considered by the Bureau, the Bureau's reason for proposing the change and the current option(s) being considered by the Bureau.

January, 1991 Consultation Items

During the May 24 and 25, 1990 meetings, more than 20 items/topics were introduced for consultation purposes. Several items/documents were very lengthy and complex. In order to provide adequate time in each meeting to properly review and discuss each consultation item, I have chosen only three of the May, 1990 items to gather additional comments on during January. The remaining items discussed in May will be scheduled for additional consultation in future meetings. Also, I have added three new potential changes for the January meetings.

0-0

Format for Comments and Responses

Since the OIEP anticipates receiving comments from several hundred respondents, it would assist the OIEP if your written comments and suggestions clearly identify the consultation item/topic number being addressed and the name and address of the tribe/school/organization you are representing.

Also enclosed is a draft copy of the Federal Register notice regarding the January, 1991 consultation meetings. Specific meeting locations can be obtained by contacting the local contact individuals identified for each meeting site.

Sincerely,

Edward F. Parisien

Deputy to the Assistant Secretary -
Indian Affairs/Director (Indian
Education Programs)

Enclosures

(4310-02)

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Consultation Meetings on Indian Education Topics

AGENCY: Bureau of Indian Affairs, Interior

ACTION: Notice of consultation hearings.

SUMMARY: In May, 1990 the Bureau of Indian Affairs conducted consultation meetings with Tribes, parents, school boards, and other interested parties concerning potential changes or issues in Indian education programs which were under consideration by the Bureau for future action.

As a follow-up to the Spring consultation activities, the Bureau is conducting additional consultation meetings for purposes of obtaining additional written/oral comments from Tribes, parents, school boards and other interested parties on the following items/topics:

1. Adult Education Program - Proposed Rule
2. Higher Education Program - Proposed Rule
3. Early Childhood Development Programs - Proposed Rule
4. Minimum Academic Standards for the Basic Education of Indian Children and National Criteria for Dormitory Situations - Proposed Rule
5. Program Eligibility - Definition of Indian
6. Chapter I Program - Proposed change in distribution formula.

DATE AND TIME: Meeting Date: January 23, 1991, 9:00 am. until 6:00 p.m.
(local time) at each site.

ADDRESSES: Meeting locations:

Albuquerque, New Mexico

Anchorage, Alaska

Gallup, New Mexico

Minneapolis, Minnesota

Aberdeen, South Dakota

Portland, Oregon

Oklahoma City, Oklahoma

Phoenix, Arizona

Sacramento, California

Nashville, Tennessee

Billings, Montana

Location contact persons:

New Mexico	Val Cordova	505/766-3034
New Mexico (Gallup)	Larry Holman	505/786-6150
Alaska	Gerald Jones	907/586-7193
Minnesota	Betty Walker	612/349-3635
South Dakota	Harry Eagle Bull or Richard Bordeaux	605/226-7431 605/964/8722
Oregon	Van Peters	503/230-5682
Oklahoma	Jim Baker or Sam Johnson	918/687-2460 405-247-6673

Arizona	Peter Soto or	602/241-6741
	Harvey Jacobs	602/562-3557
California	Fayette Babby	916/978-4680
Tennessee	Reginald Rodriguez	703/235-3233
Montana	Larry Parker	406/657-6375

Interested persons may present oral testimony or file written statements concerning the consultation items/topics. All written statements on the consultation items/topics should include the respondent's name, address and organization and must be received no later than February 26, 1991, in the Bureau of Indian Affairs, Office of Indian Education Programs, Room 3511-MIB, 1849 C Streets, NW., Washington, DC 20240, ATTN: Edward Parisian, Deputy to the Assistant Secretary - Indian Affairs/Director (Indian Education Programs).

FOR FURTHER INFORMATION CONTACT: Edward Parisian, Joe Christie or Jim Martin, Bureau of Indian Affairs, Office of Indian Education Programs, Room 3511-MIB, 1849 C Streets, NW., Washington, DC 20240, (202) 208-6123; (202) 208-6175; or (202) 208-3562.

SUPPLEMENTARY INFORMATION: The purpose of the consultation process is to provide, as required by 25 U.S.C. 2010(b), Tribes, school boards, Indian organizations, parents and other interested parties with an opportunity to comment on potential changes or issues being considered by the Bureau of Indian Affairs regarding Indian education programs.

The consultation package to be used in the January consultation meetings is being distributed to each Federally recognized Indian tribe and each Bureau funded school. Consultation packages are also available from each of the local contact persons and will be available at each of the consultation meetings.

Date: _____ Assistant Secretary - Indian Affairs

CONSULTATION ITEM # 1

CONSULTATION ITEM/TOPIC:

Adult Education Program

POTENTIAL ISSUE OR CHANGE:

To establish program regulations for the Adult Education Program.

REASON FOR PROPOSING
POTENTIAL CHANGE OR ISSUE:

In accordance with the Administrative Procedures Act, the Bureau is required to issue regulations for programs it operates.

CURRENT OPTION(S) BEING
CONSIDERED BY THE BUREAU:

1. To publish the attached draft consultation document in the Federal Register as a proposed rule.

1-0

(4310-02)

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 46

Administration of Adult Education Program

RIN: 1076-AA15

AGENCY: Bureau of Indian Affairs, Interior

ACTION: Proposed rule.

SUMMARY: The Bureau of Indian Affairs is publishing proposed regulations that will establish standardized administrative procedures for operating and administering an educational program for Indian adults. The new regulations will apply to adult education programs within the Bureau and tribally contracted adult education programs. The Office of Inspector General has recommended that regulations be developed to govern the administration of the adult education programs. These regulations are in response to the recommendation of the Office of Inspector General.

DATES: Comments should be received on or before (Insert 30 days from date of publication in the FEDERAL REGISTER).

FOR FURTHER INFORMATION CONTACT: Reginald Rodriguez, Office of Indian Education Programs, Bureau of Indian Affairs, Department of the Interior, 18th & C Streets, NW., Washington, DC 20245, telephone number (202) 343-4871.

SUPPLEMENTARY INFORMATION: These proposed regulations are published in exercise of authority delegated by the Secretary

- 1 -

of the Interior to the Assistant Secretary - Indian Affairs by 209 DM 8. Adult Education monies have been appropriated, identified and allotted to the Bureau of Indian Affairs since Fiscal Year 1955. These rules give guidance and direction to the administration of these funds. The rules will ensure that the Bureau of Indian Affairs Adult Education Program shall provide educational opportunities and learning experiences to enable Indian adults to acquire basic literacy skills, continue their education to at least the level of completion of secondary school, and to gain the skills needed to improve their functioning as individuals and as members of families and communities.

The Department of the Interior has determined that this document is not a major rule and does not require a regulatory analysis under Executive Order 12291. This rule does not constitute a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969. These regulations do not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 606 et seq). These regulations will only affect the delivery of adult education services to eligible individual Indian adults, and will not have an impact on small entities as defined in the Act.

The information collection requirements in §§ 46.5, 46.9 and 46.10 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 et seq. and assigned clearance numbers 1076-0117, 1076-0119 and 1076-0120, respectively.

1 - 2 -

The Bureau of Indian Affairs previously defined all applicants for assistance under the Adult Education Program to mean a person who is recognized as a member of an Indian tribe by the Secretary of the Interior, and who has at least one-fourth degree Indian blood, Alaska Native, Eskimo or Aleut blood (Alaska Native). However, the U.S. Court of Appeals for the Ninth Circuit has ruled that such one-fourth blood requirement is not in accordance with the authorizing statute, *Zarr v. Barlow*, No. 85-2170 (September 30, 1986). Therefore, the quarter blood requirement is being removed.

Analysis and Discussion of Public Comments

In summary, there were 126 comments received on the proposed regulations, 25 CFR Part 46, Administration of Adult Education Program of the Bureau of Indian Affairs. Of the 126 comments received, 55 percent were specific comments about particular portions. These were comments and recommendations relative to the choice of words, the lack of clarity, phraseology; apparent contradictions within the regulations or with other federal regulations and with tribal policies and procedures; conflict of timing, due dates and deadlines with other rules, regulations, policies, procedures to tribal operation plans of federal, state, tribal and private organizations; and certain specific definitions.

The remaining 45 percent of the comments were general in nature and ranged from full support for the proposed rule to strong opposition, such as limiting tribes in implementing their own guidelines for funding, not having any GED program and in general, no published regulations to govern the pro-

- 3 -

gram. Following is a summary of comments received and the Bureau's responses. For purposes of consistency, all section numbers appearing in this SUPPLEMENTARY INFORMATION portion of the Preamble refer to the proposed regulations as published in the Federal Register on November 3, 1987. Each comment is followed by the Bureau's response.

§ 46.1 Purpose and Scope.

Comments -- There were ten comments received. Seven of the commentators stated that self esteem and self image should be added to this section to describe more fully the purpose of this program.

Response. The following descriptive phrases; raise the level of education, enhance their opportunities for self-dependence, improve their ability, increase their opportunities for productive and profitable employment, and enhance their capabilities, aptly describe the stated goal of self esteem and self image of adult Indian students. No changes were made in this definition. Three commentators stated that tribal contractors do develop their own tribal codes and ordinances in the Administration of Adult Education Programs.

Response. This section does not interfere with this tribal right and duty under Public Law 93-638. This section only establishes the minimum criteria for the operation and administration of a Bureau-funded adult education program. No changes were made to this section.

§ 46.2 Definitions.

Comments -- There were thirty three comments received. One

/ - 4 -

of the commentors asked to have Alaska Native added where eligible "Indian Adult Student" is defined.

Response. The Bureau agrees and has made the correction. Five commentors made the statement that the blood requirement remain at one-fourth and one commentor suggested a one-half blood requirement rather than tribal enrollment in the definition of "Indian".

Response. The U.S. Court of Appeals for the Ninth Circuit has ruled that the one-fourth blood requirement is not in accordance with the authorizing statute. (Zarr v. Barlow, No. 85-2170 September 30, 1986). Therefore, the quarter blood requirement is being removed. Tribes, however, will continue to determine tribal membership based on tribal ordinances. The definition of "Indian" will remain as published in the proposed rules.

Four commentors requested that this program continue to fund students who are enrolled in post secondary education programs. They stated that college courses should be available under this program. This prohibition is found in the definition of "Indian Adult Student."

Response. The Bureau's Higher Education Program funds Post Secondary students for college courses and credit. This Adult Education Program is not authorized to fund the students who are enrolled in college courses. The definition has not been changed.

Two commentors requested that the phrase "equal to High School diploma" be added to the definition of General Education Development test (GED).

/ - 5 -

Response. The General Educational Development Test (GED) is a term and test that is used and recognized universally in this country as a test of competency for students in basic skills, who have not finished a prescribed course to earn a High School diploma. The certificate received when this program has been completed has been accepted by universities and employment agencies as acceptable evidence of accomplishment. Adding qualifying statements to this definition would not enhance or detract from its intent or value. The definition will remain as proposed.

§ 46.3 Reserved

§ 46.4 Eligible activities.

There were four comments received. One commentor said that his program should not be limited to GED services.

Response. This program is not limited to GED services. The tribal contractor may choose the program to be implemented after a comprehensive assessment is made of the community, and how the community can best be served.

Another commentor wished to include courses for college entrance examinations.

Response. The Higher Education Scholarship Program may design courses for the taking of these examinations. The Adult Education Program is specifically meant to upgrade the basic skill areas to further employment opportunities. The preparation for college entrance can be and often is the responsibility of the Higher Education Program.

Two commentors asked that the special instructional programs for the elderly include physically and mentally impaired

/ - 6 -

Indians.

Response. The Tribal Contractor should decide the priority funding for programs after the community assessment is made. The suggestion to include the impaired person in these programs may require extensive funding and specialized assistance more than what is available for this program. This section has not been changed.

§ 46.5 Education program plan.

There were five comments received. All of the commentors wished to add the term "appropriate", and delete the terms "cost effective, related, and certification."

Response. After careful study, the term "appropriate" substituted for the term "related" seems to have the same meaning in the context of program activities. A change in terms does not seem necessary. The term "cost effective" has been inserted in reference to the evaluation of the program. With the limited funding that is available for these programs, one of the primary concerns is the utilization and effective use of these limited funds. The Bureau believes this should remain as one of the parameters for implementing a successful program.

§ 46.6 Approval of Education Program Plans.

There were two comments received. Both comments referred to Public Law 93-638 as the authority for the construction of programs by the contracting tribes without Bureau approval and suggested this section be removed.

Response. The requirement for Bureau approval is directed at the assessment, planning, and implementation of a contracted

/ - 7 -

program. The questions are: Has the Contractor made a comprehensive assessment? Has the Contractor planned and designed the program according to the assessment? Will the Contractor implement the program on a timely basis given the guidelines it has developed and accepted? Will the Contractor properly evaluate this program using a self developed program and cost effectiveness criteria? Community input in the form of a community assessment is necessary before these programs can be approved. The Bureau disagrees with the suggestion to remove this section.

§ 46.7 Maximum program participation.

Four comments were received. The four commentors suggested that the limit of 15% be raised to 30% of the program allocation for this section.

Response. The Bureau disagrees. With the limited available funds, 30% of the allocation would seem excessive. There are the administrative costs, travel, supplies and space costs to consider in planning this program. Again, this would depend upon the priority the community places on this program in their comprehensive assessment. This restriction will remain in the proposed regulations.

§ 46.8 Eligible students.

Ten comments were received. The ten commentors wished to remove "not currently enrolled in a formal secondary or post secondary education program," from this section.

Response. Removal of this statement would eliminate the specific reason for this program. The Higher Education Scholarship Program has been authorized for post secondary programs

for students. The intent of this program is for students who are currently not enrolled in a formal education program. The Bureau has not adopted this suggestion in these proposed regulations.

§ 46.9 Application form.

No comments were received.

§ 46.10 Program records and reporting requirements.

Three comments were received. One commentor requested that quarterly reports be submitted to the Central Office for review.

Response. The Bureau disagrees. Quarterly reports are submitted by the Contractor to the Bureau's local agency because of contract requirements. The Contracting Officer's Representatives are located at these local agencies for contract monitoring purposes. The Quarterly reports are relevant for contract compliance and the local monitoring procedure that require these reports. Another commentor suggested a two year funding cycle for this program.

Response. This program is on the Indian Priority System (IPS). The programs on the IPS are funded on a yearly appropriation by Congress. It is not possible to go to two year funding until the system for funding these programs is changed.

The third commentor requested the December 1, deadline for the submission of reports be changed to coincide with the contract reporting requirements of Public Law 93-638.

Response. The Bureau agrees. The change in the reporting requirements has been changed in this proposed rule to 90 days

/ - 9 -

after the termination of the contract.

List of Subjects in 25 CFR Part 46

Indians, Adult education programs.

It is proposed to add a new Part 46 to Subchapter E, Chapter 1 of Title 25, of the Code of Federal Regulations to read as follows:

PART 46 - ADMINISTRATION OF THE ADULT EDUCATION PROGRAM

Sec.

- 46.1 Purpose and scope.
- 46.2 Definitions.
- 46.3 Information collection.
- 46.4 Eligible activities.
- 46.5 Education program plan requirements.
- 46.6 Approval of education program plans.
- 46.7 Maximum program participation.
- 46.8 Eligible students.
- 46.9 Application form.
- 46.10 Program records and reporting requirements.

Authority: 43 U.S.C. 1437; 25 U.S.C. 2, 9 and 13 and the Reorganization Plan No. 3 of 1950 (65 Stat. 1262).

§ 46.1 Purpose and scope.

This Part governs the program parameters and expenditure of funds appropriated for the Adult Education Programs funded by the Bureau of Indian Affairs. It sets forth the minimum requirements to administer Bureau operated and tribally contracted Adult Education Programs. The adult education pro-

/ - 10 -

gram is designed to help raise the level of education for Indian adults and enhance their opportunities for self-dependence, improve their ability to benefit from occupational training and otherwise increase their opportunities for more productive and profitable employment and enhance their capabilities in meeting their responsibilities.

§ 46.2 Definitions.

As used in this part

"Adult Basic Education (ABE)" means education for adults whose inability to speak, read or write the English language constitutes a substantial impairment of their ability to obtain or retain employment commensurate with their real ability.

"Adult education" means educational instruction below the college level, for Indian adults sixteen years of age or older who are not enrolled in a formalized school education program or post secondary education program, which is intended to enhance self-dependence, improve ability to benefit from occupational training or otherwise increase their opportunities for more productive and profitable employment, and/or otherwise to enhance abilities to fulfill responsibilities.

"Assistant Secretary" means the Assistant Secretary - Indian Affairs, Department of the Interior or an authorized representative.

"Community service courses" means the non-credit short courses, seminars or workshops planned to meet the adult education needs of the community.

- 11 -

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"Continuing Education Unit (CEU)" means course work in which credit may be earned but not counted toward a post secondary degree program. One CEU represents ten contact hours of participation in an organized educational experience under responsible sponsorship, capable direction and qualified instruction.

"Director" means the Deputy to the Assistant Secretary/Director - Indian Affairs (Indian Education Programs), Bureau of Indian Affairs or an authorized representative.

"General Educational Development Test (GED)" means the test taken to obtain a high school equivalency diploma.

'Indian' means a person who is a member of an Indian tribe,

"Indian adult student" means an Indian, Alaska Native, Eskimo or Aleut, who has attained 16 years of age or is beyond the age of compulsory school attendance under State or tribal law and is not currently enrolled in a formal secondary or postsecondary education program.

"Indian priority system" means the Bureau of Indian Affairs budget formulation process that allows direct tribal government involvement in the setting of relative priorities for the local operating programs.

'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians;

~~XXXXXXXXXXXXXXXXXXXX~~

"Life coping skills" means (1) everyday basic skills leading to self-sufficiency in such areas as seeking employment, social responsibilities, budgeting, money management, filling out applications, consumer awareness, and (2) instructional information services from Federal, state and tribal programs (i.e., medicare, Social Security, filing of federal and state taxes, per capita entitlements, and real estate and trust services).

"Program administrator" means an individual who is directly responsible for the operation of a Bureau or tribally contracted Adult Education Program.

"Program officer" means the officer administering funds appropriated to the Bureau for the Adult Education Program.

"Public Law 93-638" means the Indian Self-Determination and Education Assistance Act [25 U.S.C. 450 (88 Stat. 2203)].

"Secretary" means the Secretary of the Interior or an authorized representative.

"Service area" means the geographic area served by an Adult Education Program.

"Supportive services" means recruitment, child care, transportation and follow-up services for Indian adult participants.

"Tribal contractor" means an Indian tribe or organization which has contracted with the Bureau of Indian Affairs for the administration of the Adult Education Program under the authority of Public Law 93-638.

§ 46.3 . Information collection.

/ - 13 -

(a) The information collection requirements in Sections § 46.5, 46.9 and 46.10 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 et seq. and assigned clearance numbers 1076-0117, 1076-0119 and 1076-0120. This information is being collected to provide summative review for program evaluation and program planning and will be used to inform Congress on the viability and efficacy of this program. Response to this request is required to obtain a benefit in accordance with 25 U.S.C. 13.

(b) Public reporting burden for these forms is estimated to vary from 5 minutes to 2 hours per response, with an average of 1.5 hours per response, including time for receiving instructions, gathering and maintaining data, and completing and reviewing the forms. Direct comments regarding the burden estimates or any other aspect of this form to Bureau of Indian Affairs, Information Collection Clearance Officer, Room 337-SIB, 18th and C Streets, NW, Washington, D.C. 20240; and the Office of Information and Regulatory Affairs (Project 1076-0117, 1076-0229, 1076-0120), Office of Management and Budget, Washington, D.C. 20503.

§ 46.4 Eligible activities.

(a) Funds appropriated for Adult Education Programs may be used for:

(1) Programs of instruction (including costs of developing and planning these programs) for Indian adults for the purpose of enabling these adults to become productive members of society. These programs of instruction may include preparation for the General Educational Development test, Adult

/ - 14 -

Basic Education, community service courses, and life coping skills courses.

(2) Programs of instruction in Adult Basic Education or preparation for the GED designed to operate in conjunction with existing Federal and non-Federal programs and activities to develop occupational and related skills for Indian adults, particularly programs authorized under the Job Training Partnership Act (29 U.S.C. 1501 et seq.), the Vocational Education Act of 1963, as amended (20 U.S.C. 2301), or under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.).

(3) Programs providing educational support services that meet the needs of Indian adults including but not limited to:

(i) Tutoring, and

(ii) Guidance and counseling with regard to educational opportunities.

(4) Special instructional programs for elderly Indians designed to equip such elderly persons to deal successfully with practical problems in their everyday living, including the making of purchases, meeting their transportation and housing needs, and complying with governmental requirements such as those Indian trust services, public assistance, social security benefits and housing.

(b) The Adult Education Program Officer may not use adult education funds for purposes that duplicate available State, local or other Federal programs or services.

§ 46.5 Education program plan requirements..

(a) For each fiscal year covered by programs under this

/ - 15 -

Part, each program office shall develop and implement an educational plan based on the funding level established for adult education in the formulation of the budget under the Indian Priority System.

(b) These plans shall be updated every other year to reflect the current needs of the Indian adults in the service area.

(c) The educational plan shall include, but not be limited to the following information:

(1) Assessment of adult education needs of the target populations:

(2) A description of programs of instruction planned in response to this assessment, which may not duplicate activities or services available under State, local or other Federal programs;

(3) A statement of goals and measurable objectives for each program of instruction planned;

(4) Procedures, organization and methods to be used to accomplish the goals and objectives for each program of instruction;

(5) A description of the evaluation procedures to be used to measure achievement of objectives;

(6) A budget showing the amount and sources of funding and other resources required for the program;

(7) Findings, supported by an evaluation of expected program accomplishments, that the program is cost effective;

(8) A staffing plan, including position qualifications to be used in the program and including requirements that pro-

- 16 -

gram personnel be experienced and trained in fields related to the program activities;

(9) An identification of the facilities to be used and certification that they are adequate to support the planned activities; and

(10) Criteria for the course work is established prior to the beginning of the activity if Continuing Education Units (CEUs) are to be awarded to students.

§ 46.6 Approval of education program plans.

Program plans for each Adult Education Program are subject to the approval of the appropriate Agency Superintendent for Education (ASE) or the Area Education Programs Administrator (AEPA) based on criteria set forth in Section 46.5.

§ 46.7 Maximum program participation.

To assure maximum program participation, adult education funds expended under this Part may be used for recruitment, child care, student transportation, staff development and follow-up, provided that no more than 15 percent of the program allocation is used for these activities.

§ 46.8 Eligible students.

To be eligible for assistance from funds appropriated to the Bureau for adult education, an applicant must be:

- (a) An Indian as defined in Section 46.2;
- (b) Sixteen years of age or beyond the age of compulsory school attendance under State or tribal law; and
- (c) Currently not enrolled in a formal secondary or post-secondary education program.

§ 46.9 Application form.

The "Bureau of Indian Affairs Adult Education Application" shall be used by all applicants participating in adult education programs under this Part in accordance with the requirements of the Paperwork Reduction Act, section 3504(h) of P. L. 96-511. Such forms shall be available at Bureau Agency and Area Offices, and tribal offices administering this program under P. L. 93-638 contract.

§ 46.10 Program records and reporting requirements.

(a) Each program officer shall annually submit a report on the previous fiscal year's activities to the Deputy to the Assistant Secretary/Director - Indian Affairs (Indian Education Programs) through the appropriate ASE or AEPA within 90 days after the close of the contract year. The report shall include the following information:

(1) Number of program participants by instructional area (i.e., Adult Basic Education, GED preparation, community service classes, life coping skills), records of program completion and information regarding duration of course hours;

(2) Number of participants that earned high school equivalency diplomas;

(3) Listing of courses offered as community service courses, life coping skills classes, special courses for the elderly, etc., along with data on the total number of participants in each course offered and those who completed the program;

(4) Narrative statements, including the financial statement, describing how all fiscal year Bureau funds were used

/ - 18 -

for the adult education program;

(5) Narrative statements providing description of program accomplishments, facts, suggestions recommendations, newsletters (if applicable), pictures (if applicable) and highlights.

(b) Each adult education program officer shall maintain records necessary to identify all transactions involving Bureau funds available under this part. Such records shall include:

(1) Student files that identify each adult student and their status;

(2) Student files that show attendance, courses taken, and placement test results;

(3) Adequate documentation to demonstrate the eligibility of every student assisted by the program;

(4) Information regarding the number of participants served by the programs and the number of participants that earned high school equivalency diplomas; and

(5) Documentation of program expenditures.

Assistant Secretary - Indian Affairs

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1 - 19 -

CONSULTATION ITEM # 2

CONSULTATION ITEM/TOPIC:

Higher Education Program

POTENTIAL ISSUE OR CHANGE:

To revise the current program regulations for the Higher Education Program.

REASON FOR PROPOSING
POTENTIAL CHANGE OR ISSUE:

In accordance with the Bureau's internal regulations review process, the higher education program regulations has been identified for review.

CURRENT OPTION(S) BEING
CONSIDERED BY THE BUREAU:

1. To publish the attached draft consultation document in the Federal Register as a proposed rule.

2-0

Alaska Native students pursuing graduate degrees at the masters, doctoral and law degree levels will be added as an amendment to this rule. This amendment will establish eligibility requirements, academic requirements, priority fields of study and administrative cost allowances.

Accordingly, it is proposed to revise Part 40 of Subchapter E of Chapter I, Title 5 of the Code of Federal Regulations by submitting a new title as set forth below and the revised Part 40 to read as follows:

RIN: 1076-AA10

PART 40 - ADMINISTRATION OF THE HIGHER EDUCATION GRANT
PROGRAM

Subpart A - General Provisions

Sec.

- 40.1 Purpose and scope.
- 40.2 Definitions.
- 40.3 Program objective.
- 40.4 Information collection.
- 40.5 Grant prioritization.

Subpart B - Direct Student Grants

- 40.11 Types and availability of Bureau awards.
- 40.12 Administrative cost allowance under Public Law 93-638.
- 40.13 Eligible applicants.

- 40.14 Application forms.
- 40.15 Closing dates for filing applications.
- 40.16 Application for campus-based aid and other sources of financial assistance.
- 40.17 Determination of eligibility and amount of grant.
- 40.18 Application review.
- 40.19 Notification of grant award or rejection.
- 40.20 Payment of grant.
- 40.21 Effect of termination of enrollment.
- 40.22 Academic requirements for continuance of grant.
- 40.23 Effect of academic probation or suspension on grant.
- 40.24 Maximum period of eligibility for Bureau grants.
- 40.25 Records and reporting.

Authority: 43 U.S.C. 1457; 25 U.S.C. 2, 9, and 13 and the Reorganization Plan No. 3 of 1950 (65 Stat. 1262).

Subpart A - General Provisions

40.1 Purpose and scope.

The purpose of these regulations is to provide uniform procedures, accountability and responsibility of Bureau of Indian Affairs federal funds to govern the Higher Education Grant Program administered under authority of the Snyder Act of November 2, 1921 (25 U.S.C. 13).

40.2 Definitions.

"Academic year" means a period of time in which a full-time student is expected to complete the equivalent of at

least two semesters, two trimesters or three quarters at higher education institutions that measure academic progress in credit hours and use a semester, trimester or quarter system. Students are eligible for Summer sessions according to local program guidelines.

"Accreditation" means the certification or pending certification of an institution of higher education by a sanctioned national or regional accrediting agency or association recognized by the Secretary of Education.

"Assistant Secretary" means the Assistant Secretary - Indian Affairs, Department of the Interior or the designee.

"Bureau" means the Bureau of Indian Affairs (BIA).

"Campus-based aid" means the Federal financial aid programs [i.e., Supplemental Educational Opportunity Grants (SEOG), College Work-Study (CWS), and Perkins Loan] administered by the financial aid officer at an institution of higher education.

"Candidate for Accreditation" means the certification made by a nationally or regionally recognized accrediting agency or association upon determination that a higher education institution is progressing toward accreditation.

"College level" means a postsecondary associate, Associate of Applied Science leading to a Baccalaureate or postbaccalaureate degree program.

"Continuing student" means a grant recipient who attended college the previous term and is reapplying for the next academic term.

"Department of Education" means the United States Department of Education.

"Director" means the Deputy to the Assistant Secretary/Director - Indian Affairs (Indian Education Programs), Bureau of Indian Affairs.

"Eligible institution" means an institution of higher education that is accredited by a national or regional accrediting agency or is a candidate for accreditation, or is a Tribally Controlled Community College or has qualified under the three institutional certification method, as determined by the tribal contractor, established by section 1201(a)(5)(B)

of the Higher Education Act of 1965 (20 U.S.C. 1141).

"Financial aid officer" means the officer of an institution of higher education who has responsibility for institutionally administered financial aid.

"Financial aid package" means the packet of student aid from various types of resources, prepared and awarded by the financial aid officer, including federal funds administered by the Department of Education, excluding Bureau grants.

"Full-time student" means an enrolled student who is carrying a full-time academic workload (excluding correspondence) as determined by the eligible institution and applicable to all students enrolled in a particular program, such as:

(a) Twelve semester or 12 quarter hours per academic term in those higher education institutions using standard semester, trimester, or quarter hour systems; and

(b) Twenty-four semester or 36 quarter hours per academic year for higher education institutions using standard semester, trimester, or quarter hour systems or the prorated equivalent for programs of less than one academic year.

"Higher Education Office" means either the Bureau or the tribally approved office administering funds appropriated to the Bureau for higher education grants to Indian students.

'Indian' means a person who is a member of an Indian tribe;

'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians;

"Near reservation" means the area or communities adjacent to reservations which are designated by the Assistant Secretary upon recommendation of the local Bureau Superintendent, whose recommendation shall be based upon consultation with the tribal governing body of those locations, as appropriate for the extension of financial assistance on the basis of geographical proximity of the area to the reservation.

"Part-time student" means an enrolled student who is carrying a part-time academic workload (other than by correspondence) as determined by the eligible higher education institution and the tribal contractor and applicable to all

2 - 5 -

students enrolled in a particular program.

"Pell Grant Program" means the program of financial aid for undergraduate students authorized by Title IV-A Subpart 1 of the Higher Education Act of 1965, as amended and governed by regulations contained in 34 CFR, Part 690.

"Program Plan" means an individualized course of study in which the student, in conjunction with the degree granting institution of higher education, outlines the required courses for the desired degree.

"Public Law 93-638" means the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450, et seq.).

"Scholarship officer" means the person authorized to administer funds appropriated to the Bureau for higher education grants to Indian students.

"Secretary" means the Secretary of the Interior.

"Summer school" means the school session conducted during the summer months enabling students to accelerate progress toward a degree.

"Three-institutional-certification method" means the process wherein the Secretary of Education verifies that not fewer than three accredited college level institutions have accepted and do accept an unaccredited college's credits, upon transfer, as though coming from an institution of higher education accredited by a nationally or regionally recognized accrediting agency or association.

"Tribal contractor" means an Indian tribe or organization which has contracted with the Bureau of Indian Affairs for

the administration of the Higher Education Grant Program under the authority of P. L. 93-638.

"Undergraduate" means a student enrolled in an undergraduate course of study at an institution of higher education who:

(a) Has not been awarded a baccalaureate or first professional degree; and

(b) Is in an undergraduate course of study that is equivalent to four academic years, or is enrolled in a five academic year program designed to lead to a first degree. A student enrolled in a program of any other length is considered an undergraduate student for only the first four academic years of that program.

"Unmet Need" means the difference between the students' cost of education and the resources available to defray those costs. Resources available include contributions from the student and, if dependent, the student's parents; as well as federal, state and institutional financial aid which exclude Bureau grants. The Bureau and tribal contractors may adjust the unmet need in accordance to the criteria as stated in the Department of Education regulations, the Higher Education Act of 1965 (20 U.S.C. 1141).

40.3 Program objective.

The objective of the Bureau of Indian Affairs Higher Education Grant Program is to provide financial aid to eligible

Indian students to obtain an undergraduate degree from an eligible institution of higher learning.

40.4 Information collection.

The information collection requirements contained in 40.14 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 et seq. and assigned clearance numbers 1076-0099 and 1076-0101. The information is collected to determine the eligibility of Indian student applicants. The information will be used to award grants to Indian students for college assistance.

40.5 Grant prioritization.

(a) If a tribe contracting for the operation of a higher education program desires to set program priorities within these standards for categories of applicants, these priorities, to be given effect, must be set out in the application materials provided to grant applicants, made part of the contract application, and submitted for approval to the Director, who shall have 30 days after receipt within which to respond, to assure compliance with the regulations as set forth in this Part. A tribal program priority plan shall include:

- (1) The listing of priorities;
- (2) The reason; and
- (3) Supporting documentation.

(b) If a tribe desires to set a higher academic standard by increasing the minimum GPA or academic hours needed

in order to be classified as a full-time student, the tribe may do so.

(c) The Director shall notify the tribe and contracting officer, in writing, of any comments regarding the tribe's program priority plan, prior to the negotiation of the higher education contract. If the Director disapproves of the tribal program priority plan, because it contravenes the regulations, the Director must inform the tribe indicating the revisions necessary to comply with the regulations.

(d) The tribe's program priority plan will be subject to the requirement in 40.15(b) of Subpart B.

Subpart B - Direct Student Grants

40.11 Types and availability of Bureau awards.

(a) Bureau awards to undergraduate students shall be referred to as undergraduate grants.

(b) All undergraduate grant applications shall be processed in accordance with the provisions of these regulations.

(c) All grants made under this Part shall be subject to the availability of appropriations.

40.12 Administrative cost allowance under Public Law 93-638.

Tribal contractors operating a program under P. L. 93-638 are entitled to administrative cost allowances.

(a) The amount of the allowance shall not exceed 30% of the higher education allocation for that fiscal year.

At least 70% percent of the higher education allocations must be used for grants to eligible students.

(b) The higher education office must use its administrative cost allowance to offset its costs of administering the Higher Education Grant Program.

(c) These administrative costs include salaries and fringe benefits for direct program administration positions such as scholarship officers, clerical personnel, counselors, as well as travel costs, materials, supplies, equipment and rents. This excludes contract support funds. The remainder of funds, after administrative costs are deducted, must be used for grants to eligible students.

40.13 Eligible applicants.

To be eligible for assistance from funds appropriated to the Bureau for higher education, an applicant must:

(a) Be an Indian as defined in 40.2.

(b) Be admitted for enrollment as a full-time student in an eligible institution of higher education.

(c) Students who reside near or within the exterior boundaries of the Indian reservations under the jurisdiction of the Bureau of Indian Affairs or on trust or restricted lands under the jurisdiction of the Bureau of Indian Affairs shall receive first priority in funding. After students meeting these eligibility requirements are taken care of, Indian students who do not meet the residency requirements but are otherwise eligible may be considered.

(d) Have financial need as determined by the eligible institution's financial aid office according to the U.S.

2 - 10 -

Department of Education's standard formula used to evaluate information the student supplies on their standard application form as required under 34 CFR Part 668, Student Assistance General Provisions;

(e) Must achieve and maintain a cumulative grade point average (GPA) of 1.5 for freshmen students and a grade point average (GPA) of 2.0 for sophomores, juniors, and seniors on a 4.0 grade point scale (or the equivalent) in each academic term. However, a student may be funded for an additional probationary term if they fall below the minimum academic standard as addressed above; and

(f) Apply for all available campus-based aid in a timely manner.

(g) An applicant may be eligible and funded for a merit based award.

(h) At contractor discretion, students may be eligible for developmental, enrichment, or tutorial program services.

40.14 Application forms.

The "Bureau of Indian Affairs Higher Education Application" (Grant Application Form, OMB Number 1076-0101) form and the "Financial Aid Package Form" (OMB Number 1076-0099) shall be used by all applicants for grants under this Part in accordance with the requirements of the Paperwork Reduction Act, section 3504(h) of P. L. 96-511. Such forms shall be available at Bureau Agency and Area Offices and tribal contract higher education offices administering this program.

40.15 Closing dates for filing applications.

(a) Application for a Bureau of Indian Affairs Higher Education grant may be submitted to the appropriate higher education office beginning January 1 and must be received no later than:

(1) March 15 for the fall term or for the next academic year.

(2) October 1 for applicants beginning the second semester, second or third quarter, or second or third trimester.

(3) April 1 for applicants wishing to attend summer school.

(b) After meeting the eligibility criteria set out in 40.13 of this Part and unless otherwise announced in the grant application material furnished to applicants for grants, applications shall be considered solely on the basis of meeting the standards set out in this Part and processed in the order of their receipt.

(c) Any applications received after the stated closing date will be considered only if funds remain available after grants are made to eligible applicants who met the deadline.

(d) Continuing students must reapply for grants each academic year. Summer school application and funding may be awarded at the discretion of the program officer.

(e) Offices receiving applications shall acknowledge receipt in writing within a reasonable period.

40.16 Application for campus-based aid and other sources

2 - 12 -

of financial assistance.

In order to meet the eligibility requirements under 40.13 and to assure consideration for funding, an applicant must begin the application process in January for the Pell Grant Program, campus-based aid programs and, if available, State grant aid, in order to meet college admission deadlines with the completed application materials. Although not required to do so, applicants are encouraged to apply for private financial aid. For the student to become qualified and to receive financial aid, the financial aid officer must complete and forward the Bureau's Financial Aid Package Form to the student's higher education office.

40.17 Determination of eligibility and amount of grant.

Primary responsibility for determining an applicant's eligibility and, if eligible, the size of the grant to be made under this Part, rests with the scholarship officer who works with the student's approved higher education office. Those determinations shall be made by the scholarship officer on the basis of review of the application as provided in 40.18 subject to the availability of appropriated funds.

40.18 Application review.

(a) Completed applications shall be processed in the order in which they are received. Applications shall be reviewed on an individual basis and approved by the scholarship officer. The scholarship officer shall first determine, applying the standards in 40.13 through 40.16,

whether the applicant is eligible for a grant. A complete application package consists of the following:

(1) A fully completed Bureau Higher Education Grant Application Form:

(2) A current Certificate of Indian Blood (CIB) from the tribe or the Bureau certifying that the applicant is a member, or eligible for membership in an Indian tribe, must be on file in the program office.

(3) A letter of acceptance from an eligible institution (new applicants, transfers and previously suspended students);

(4) A high school transcript or General Education Development (GED) high school equivalency certificate (new applicants);

(5) Grades and/or transcripts from the previous term(s) or year(s) of attendance (continuing students); and

(6) A "Financial Aid Package" form prepared and certified by the college financial aid officer indicating the student's unmet needs based upon the individual's budget, resources and awards.

(b) The Scholarship Officer shall review each completed application, including the financial aid package prepared by the financial aid officer. Scholarship officers are to consult with financial aid officers where any special situation of a student's financial need is not clear from the financial aid package. Any changes or additions made pursuant to this consultation must be supported with appropriate documentation from the applicant or other directly involved

party.

(c) Upon finding that the applicant is eligible for assistance, the scholarship officer may award students a maximum grant of the unmet need or a merit based scholarship at the eligible institution they are attending. If program funds are available, such grants may then exceed this limitation if an unmet need still exists after the Bureau grant and all campus-based aid and other financial aid under 40.16 are considered.

(d) Students accepting a grant award must be advised of their responsibilities as set out in 40.21 through 40.24 under this Part. An outline of these responsibilities will be provided as part of the application procedures.

40.19 Notification of grant award or rejection.

The scholarship officer shall notify each applicant, and the financial aid officer, in writing of his/her determination with supporting reason for such determination.

40.20 Payment of grant.

(a) Grants made by the scholarship officer shall be paid by check to the applicant in care of the financial aid office of the eligible institution in which he/she is enrolled on a semester, trimester or quarterly basis.

(b) Financial aid officers shall disburse grants made under this Part to their recipients according to the disbursement policy of the eligible institution.

(c) Grants are not to be used for repayment of educational loans or previously incurred bad debts.

40.21 Effect of termination of enrollment.

(a) A grant recipient who without justifiable circumstances fails to enroll, officially or unofficially withdraws, or is expelled before completion of the academic term, semester, trimester, or quarter, or fails to meet the academic standards required by 40.23 during a probation period, shall, if no tribal repayment restitution plan is included in the contract, repay the grant awarded for that term only, minus any portion which may have been refunded by the eligible institution of higher learning to the higher education office making the award.

(b) A grant recipient who does not enroll, who withdraws, or who is expelled during an academic term shall submit a written notification within 10 days of his/her failure to enroll, withdrawal or expulsion to his/her higher education office with the following information:

(1) The date of withdrawal or expulsion;

(2) A written statement with supporting documentation, stating his/her reason for withdrawal or the reason for the expulsion for that academic term including mitigating circumstances, if any and

(3) A copy of the student's request made to the eligible institution to return, by check or money order payable to the Bureau of Indian Affairs or the tribe, whichever is appropriate, any remaining balance of the Bureau grant for that academic term.

(c) The student must demonstrate justifiable circum-

2 - 16 -

stances to avoid repayment of the grant amount expended upon termination of enrollment for that academic term.. Failure to provide documentation for justifiable circumstances will result in termination of the student's eligibility for future higher education grant awards and require the student to repay any outstanding grant award for that academic term only. These justifiable circumstances include, but are not limited to:

(1) Withdrawal due to a student's medically diagnosed condition which impairs the student's ability to attend school or pursue a course of study. In this case, the student must provide documentation from his/her physician; and

(2) Individual circumstances that constitute for the student an undue hardship which will significantly hamper the student's academic success (e.g., illness and/or death in the family).

(3) Such circumstances that are justifiable as determined by the tribal contractor.

(d) Determination of repayment due to a student's termination of enrollment for that academic term;

(1) The scholarship officer shall review, within 30 days, the terminating student's reason(s) for termination to determine if the grant must be repaid.

(2) Within 30 days of the student termination, the scholarship officer must notify the student in writing whether or not the student is required to repay the grant awarded during that academic term.

(3) Definition of repayment/restitution shall be deter-

2 - 17 -

mined by the tribal contractor as stated in the contract.

40.22 Academic requirements for continuance of grant.

Grant recipients shall meet the following two requirements for academic progress for continued grant awards:

(a) Full-time grant recipients must complete 12 or more quarter/semester hours in the course of study in which the student is enrolled, while part-time recipients must fulfil the same requirements ratably adjusted to their part-time status, and

(b) All grant recipients must achieve and maintain a cumulative grade point average (GPA) of 1.5 for freshmen and 2.0 for sophomores, juniors, and seniors on a 4.0 grade point scale (or the equivalent) in each academic term.

40.23 Effect of academic probation or suspension on grant.

(a) All grant recipients shall continue to be eligible for a higher education grant as long as they maintain the academic requirements stipulated by the program, subject to the time limitations set forth in 40.24.

(1) All grant recipients are required to submit grade reports or transcripts as issued by the college/university for each term to their respective higher education offices.

(2) A grant recipient who does not meet the minimum academic requirements will be placed on academic probation for the following academic term. Upon receipt of the student's grades for that term the scholarship officer shall

notify the student in writing of the reason(s) for placing the student on probation.

(3) A grant recipient on academic probation must complete 12 or more quarter/semester hours during which time the term average GPA must be brought to the standard specified in 40.22 (b).

(4) A grant recipient's failure to meet the academic requirements in paragraph (a)(3) of this section shall result in suspension from Bureau funding under this Part. The scholarship officer shall notify the student, in writing, the reason(s) for suspension.

(5) A grant recipient who is suspended from Bureau funding shall not be considered for future funding under this Part until the recipient meets the minimum academic requirements as set forth in 40.22 (b).

(6) A grant recipient who has received a higher education grant shall provide an official transcript on an annual basis of his/her college work to the responsible scholarship officer who will evaluate the student's progress toward the completion of postsecondary degree requirements.

(b) Part-time students shall be subject to the same requirements set out in this section.

40.24 Maximum period of eligibility for Bureau grants.

(a) When a student pursuing a first time degree cannot complete either a four year or a five year baccalaureate degree program within the required time frame, the affected student must submit a student program plan along with an

official transcript of completed course work for review by the scholarship officer. The scholarship officer shall review the transcript and program plan to determine if the student is eligible for an extension of one academic year to complete the baccalaureate degree. Such criteria as the field of study, number of labs required, if on-the-job training is required, etc., will be considered in determining whether or not an extension will be granted. In no case shall this extension exceed more than one academic year beyond their program plan.

(b) Students who cannot completely meet associate degree requirements within two academic years due to the design of the program must submit a transcript of grades and a program plan to the scholarship officer. The scholarship officer shall review the transcript and program plan to determine if the student is eligible for an extension of one academic year to complete the associate degree. The same criteria as in Section 40.26(a) shall be used for making this determination. In no case shall this extension exceed one academic year.

40.25 Records and reporting.

(a) Annual reports for the Higher Education Grant Program shall be submitted to the Director by the higher education office by December 1 of each year for the preceding fiscal year.

(b) Each higher education office shall maintain student files, a ledger of all costs, and related records necessary to identify all transactions involving expenditures of

Bureau funds under this Part. Such records shall:

(1) Afford ready identification of each recipient's award and status;

(2) Be able to demonstrate the eligibility of every student who is being assisted by the Program;

(3) show the amount of need determined for each award recipient and the manner in which the need was calculated and met;

(4) Identify the scholarship officer who makes the determination of such need; and

(5) Identify the students who have terminated their enrollment.

(c) Each Higher Education Program shall maintain a listing of grant recipients.

(d) Each office will submit any records and information that the Director requires in connection with the administration of this part and will comply with such requirements as the Director may find necessary to ensure the accuracy of such reports.

Assistant Secretary-Indian Affairs

CONSULTATION ITEM # 3

CONSULTATION ITEM/TOPIC:

Early Childhood Development Program

POTENTIAL ISSUE OR CHANGE:

To establish program regulations for the Early Childhood Development Program.

REASON FOR PROPOSING
POTENTIAL CHANGE OR ISSUE:

Section 5116 of P.L. 100-297 authorizes the Secretary to provide grants to tribes, tribal organizations and consortia of tribes and tribal organizations for the operation of early childhood development programs. The potential regulations would govern the grant application process.

CURRENT OPTION(S) BEING
CONSIDERED BY THE BUREAU:

1. To publish the attached draft consultation document in the Federal Register as a proposed rule.

3-0

[4310-02]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 35

Minimum Standards and Application and Approval Procedures for
Bureau of Indian Affairs Early Childhood Development Programs.

RIN: 1076 - AC25

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed Rule.

SUMMARY: The Bureau of Indian Affairs is publishing a proposed rule which establishes minimum program standards for the operation of Early Childhood Development Programs and specifies the application and approval process for applicants of such programs.

DATES: Comments must be received on or before ninety (90) days after publication in the FEDERAL REGISTER.

ADDRESSES: Written comments should be addressed to the Deputy to the Assistant Secretary - Indian Affairs/Director (Indian Education Programs), Bureau of Indian Affairs, Mail Stop - 3516 MIB, 1849 C Street, N.W., Washington, D.C. 20240. If preferred, comments may be delivered to Room 3512, Main Interior Building, 1849 C Street, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Mr. William Mehajah, Office of Indian Education Programs, Bureau of Indian Affairs, Department of the Interior, 1849 C Street, N.W., Washington, D.C. 20240, telephone number (202) 208-4190.

SUPPLEMENTARY INFORMATION: The Elementary and Secondary School Improvement Amendments of 1988, Public Law 100-297 authorize the utilization of funds for Early Childhood Development Programs. This proposed rule is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary - Indian Affairs by 209 DM 8.

The policy of the Department of the Interior is, whenever practical, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments regarding the proposed rule to the locations identified in the Addresses section of this preamble.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

The Department of the Interior has determined that this proposed rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement is required pursuant to the National Environmental Policy Act of 1969.

The primary author of this document is: Mrs. Dixie Owen, Education Specialist, Bureau of Indian Affairs, Office of Indian Education Programs, Branch of Elementary and Secondary Education.

Information collection requirements contained in sections 35.120 through 35.129 will be submitted to the Office of Management and Budget for approval as required by 44 U.S.C. 3501 et seq. The collection of this information will not be required until it has been approved by the Office Management and Budget.

List of Subjects in 25 CFR Part 35: Early childhood development programs.

For the reasons set out in the preamble, Part 35 of Title 25, Chapter I of the Code of the Federal Regulations is proposed to be added as set forth below.

AUTHORITY: 20 USC 3385, 25 USC 2003

TABLE OF CONTENTS

Subpart A - General Information.

- 35.1 Scope.
- 35.2 Definitions.

Subpart B - Minimum Program Standards.

- 35.20 Administrative requirements.
- 35.21 Staffing requirements.
- 35.22 Curriculum and instruction.
- 35.23 Child evaluation.

Subpart C - Health and Safety Standards.

- 35.40 Health and safety policies.
- 35.41 Food and food preparation.
- 35.42 Rest or quiet activity period.

Subpart D - Transportation.

- 35.60 Attendance areas.
- 35.61 Child supervision.
- 35.62 Vehicle records and reports.
- 35.63 Volunteer vehicles for field trips.
- 35.64 Volunteer vehicle operators.

Subpart E - Parent Involvement.

- 35.80 Parental participation.
- 35.81 Information dissemination.

Subpart F - Social Services.

- 35.90 Family services and referrals.

Subpart G - Facilities.

- 35.100 Facility standards.

Subpart H - Standards for Applications and Program Plans.

- 35.120 Application submission.
- 35.121 Criteria for approval of ECDP application.
- 35.122 Service population description.
- 35.123 Program plan.
- 35.124 Content of program plan.
- 35.125 Coordination of existing resources.
- 35.126 Provision for parent participation.
- 35.127 Monitoring and evaluation.
- 35.128 Technical assistance.
- 35.129 Annual reporting.

Subpart I - Assistance Formula.

- 35.140 Funding priorities.
- 35.141 Funding formula.
- 35.142 Information collection.

SUBPART A - General Information.

35.1 Scope.

(a) The standards are developed consistent with Public Law 100-297. Early Childhood Development Programs (ECDP) standards reflect the belief that every aspect of the preschool operation affects the children involved. The physical environment, administrative functioning, staff qualifications, appropriate equipment, adult/child ratio, procedures for health and sanitary care, and the provision of rest, meals and varied activities all ~~contribute to the educational experience of all children and~~ should be maintained at a level of quality which promotes healthy growth and development of children. The provisions of Public Law 94-142 are hereby incorporated in this rule.

The standards require that all ECDP programs:

(1) shall coordinate existing programs and may provide services that meet identified needs of parents and children under six years of age which are not being met by existing programs including:

- (i) prenatal care,
- (ii) nutrition education,
- (iii) health education and screening,
- (iv) educational testing, and
- (v) other educational services.

(2) may include instruction in the language, art, and culture of the tribe, and

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(3) shall provide for periodic assessment of the program.

(b) The standards and the application and approval process apply specifically to tribes, tribal organizations, and consortia of tribes and tribal organizations who have combined membership of 500 members or more to fund early childhood development programs.

35.2 Definitions. For purposes of this part, the following definitions apply:

~~"Center-based ECDP"~~ means those programs which provide services to children in a group; center-based programs may operate either from ECDP centers/classrooms or from homes used as satellite centers. A minimum of 15 children shall be served in a center-based classroom.

"Early Childhood Development Program" means an organized program of activities for Indian parents and their children under six years of age designed to develop the child's cognitive, social, psycho-motor, and physical abilities in preparation for school participation at the kindergarten level. Such programs may be carried out through tribally-determined options which may include but not be limited to center-based, home satellite center, or home-based ECDP. A minimum of 15 children shall be served in any ECDP.

"Eligible ECDP participant" means Indian parents and children under six years of age whose needs are not being met by existing programs.

"Handicapped child" or "Handicapped Children" means any child under six years of age who has been professionally diagnosed as:

(a) "Blind" means the possession of a central vision acuity of 20/200 or less in the better eye with correcting glasses or a peripheral field of vision so contracted that its widest diameter is less than 20°.

(b) "Deaf" means a hearing impairment which is so severe that the child is impaired in processing linguistic information ~~through hearing, with or without amplification, which adversely~~ affects educational performance.

(c) "Hard of hearing" means a hearing impairment, whether permanent or fluctuating, which adversely affects a child's educational performance but which is not included under the definition of "deaf" in this section.

(d) "Mentally retarded" means significantly sub-average general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period, which adversely affects a child's educational performance.

(e) "Multi-handicapped" means concomitant impairments (such as mentally retarded with a minor additional handicap such as speech impaired) the combination of which causes educational problem that cannot be accommodated in regular education programs or in part-time special education programs.

(f) "Severely Multi-handicapped" means concomitant impairments (such as mentally retarded-blind; mentally retarded-deaf) the combination of which causes such severe education problems that they cannot be accommodated in regular education programs or in special education programs solely for one of the impairments. The term includes deaf-blind children.

(g) "Orthopedically impaired" means a severe orthopedic impairment which adversely affects a child's education performance. The term includes impairments cause by congenital anomaly (e.g., clubfoot, absence of a member, etc.), impairments caused by disease (e.g., poliomyelitis, bone tuberculosis, etc.), and impairments from other causes (e.g. cerebral palsy, amputations, and fractures or burns which cause contractures).

(h) "Other health impaired" means limited strength, vitality or alertness, due to chronic or acute health problems such as heart condition, tuberculosis, rheumatic fever, nephritis, asthma, hemophilia, epilepsy, lead poisoning, leukemia, or diabetes which adversely affects a child's educational performance.

(i) "Seriously Emotional Disordered" means a condition exhibiting one or more of the following characteristics with such frequency intensity, or duration as to require intervention:

(1) An inability to learn which cannot be explained by intellectual, sensory, or health factors;

(2) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers;

(3) Inappropriate types of behavior or feelings under normal circumstances;

(4) A general pervasive mood of unhappiness or depression; or

(5) A tendency to develop physical symptoms or fears associated with personal or school problems. The term includes children who are autistic or schizophrenic.

(j) "Speech impaired" means a communication disorder, such as stuttering, impaired articulation, or a voice impairment, which adversely affects a child's education performance.

(k) "Severely and profoundly retarded" means a degree of mental retardation as defined in paragraph (d)(3) of this section) which severely restricts and delays major aspects of intellectual functioning so as to require intensive small group instruction and supervision.

(l) "Students requiring home/hospital based instruction" means students provided programs of instruction in a home or hospital setting because in the judgement of a physician that a student cannot receive instruction in a regular public school facility without endangering the health or safety of the student or of other students.

(m) "Visually handicapped" means a visual impairment which, even with correction, adversely affects a child's education performance. The term includes partially seeing, but not fully blind, children.

"Home-based ECDP" means those programs which provide preschool services to individual children through regularly scheduled visits by program staff to a child's home. The maximum number of children in a home-based ECDP shall be six at any time, including family members.

"Home satellite center" means a program where participants are from more than one family.

"Home visitor" means professionals required to visit the home who may include but not limited to Social Workers, Occupational Therapists, Physical Therapists, and Speech Therapists.

"Indian" means a person who is a member of an Indian tribe.

"Indian tribe" means any Indian tribe, band, nation or other organized group of community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

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"Tribal organization" means the recognized governing body of any Indian tribe; any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body or which is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities. Provided, that in any case where a contract is let or grant made to an organization to perform services benefiting more than one Indian tribe, the approval of each such Indian tribe shall be a prerequisite to the letting or making of such contract or grant.

SUBPART B - Minimum Program Standards.

35.20 Administrative Requirements.

(a) Administrative Plan. Each program shall locally develop a three year comprehensive plan which provides for central Administrative oversight over all program functions and clearly establishes administrative lines of authority.

(b) Coordination with Other Early Childhood Programs. In those instances where other early childhood programs are operated by the other ECDP, the applicant shall coordinate existing programs and may provide services that meet identified needs of parents and children under six years of age which are not being met by existing program (ECDP).

(c) Designation of Administrative Responsibility. Each applicant shall designate one person who will have administrative responsibility over the operation of the program and who will be responsible for maintaining all ECDP functions. More than one person may be designated to assist in such responsibilities.

(d) Written Policies and Administrative Records. Each ECDP shall have written policies for and shall maintain a record-keeping system which includes:

- (1) program operation;
- (2) local memoranda of understanding;
- (3) enrollment and attendance;
- (4) personnel to include:
 - (i) job descriptions,
 - (ii) provisions for staff development,
 - (iii) confidential background checks,
 - (iv) health records, and
 - (v) performance appraisals;
- (5) confidentiality provisions;
- (6) parental involvement plan;
- (7) child identification information to include:
 - (i) child find (recruitment efforts),
 - (ii) family needs assessment,
 - (iii) child progress information,
 - (iv) health/immunization information,

(8) individual education plans for special needs children;

(9) financial records;

(10) equipment inventory; and

(11) vehicle maintenance, licensing and inspection records.

(e) Annual Internal Program Review. Each program shall conduct an annual internal program review, with program administrators and staff jointly examining program operations to determine:

(1) operating efficiency, including fiscal responsibility;

(2) student progress;

(3) appropriateness of program/policies, objectives and methods;

(4) parent and community concerns;

(5) staff performance;

(6) adequacy of facilities; and

(7) sound educational practices.

(f) Annual Program Review by Office of Indian Education Programs. The Office of Indian Education Programs shall monitor and evaluate each ECDP site annually.

(g) Program Planning and Consultation.

(1) Each program shall hold regular parent and staff meetings to provide opportunities to parents for planning,

advisement and consultation with program administrators. Evidence of such consultation shall be maintained by the program.

(2) Provision shall be made to interpret the program to staff, parents and community members. This provision shall be made in the form of a written document such as a brochure or manual which shall be available to interested persons.

(h) Program Planning and Consultation.

(1) Program administrators shall coordinate the Early Childhood Development Programs with appropriate community resources such as social services, Indian Child Welfare Act services, and mental and physical health care providers. If these services are not adequate, a child development specialist with knowledge of social, emotional growth and development shall be employed.

(2) The program shall provide for coordination with local recipient elementary schools to facilitate the child's transition from the program to either kindergarten or first grade.

This coordination shall include the following, to the degree possible:

(i) appropriate readiness activities to prepare children for kindergarten or first grade;

(ii) orderly transfer of records in accordance with provisions of the Privacy Act;

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(iii) joint planning meetings with parents, ECDP, kindergarten, and first grade education staff; and

(iv) opportunity for ECDP children to visit the recipient schools prior to their enrollment at the kindergarten or first grade levels.

35.21 Staffing Requirements. The applicant shall employ ECDP staff consisting of a director and as many professionals and paraprofessionals as required by the program. The applicant will employ staff who by experience, training, education and interest in early childhood education are qualified to meet the need of the parents and children. The staffing pattern should reflect the ability or the resources to instruct in the language, art, and culture of the tribe.

(a) Staffing Pattern. ECDP recommends the applicant employ staff as follows (geographics, etc. must be considered):

(1) Director. One (1) full-time for programs of 85-100 children.

(2) Director. One (1) half-time for programs of 35-85 children.

(3) Teacher/Director. One full-time for programs of 25-35 children.

(4) Teacher. One full-time for each center-base classroom of 15 children.

(5) Aide. One full-time for each center-base classroom of 15 children.

Staffing patterns for handicapped will be consistent with guidelines determined by Office of Indian Education Programs' Branch of Exceptional Education and project application.

(b) Staff Qualifications:

(1) Director, Teacher/Director. Must be certified in state of ECDP location. Evidence of program management experience preferred.

(2) Teacher. State certification with B.S. or B.A. degree in early childhood education. A teacher possessing degree and certification in elementary education must have, or be in the process of acquiring, a Child Development Associate (CDA) credential. Teachers who have no prior experience in teaching young children will have opportunity for a supervised experience before assuming the role of lead teacher. Teachers shall have opportunity for in-service training that extends knowledge of child development and its application to sound early child programs.

(3) Teacher Aide. Must be eighteen years of age or older; must work under direct supervision of qualified teacher at all times; shall participate in professional development programs such as the CDA; shall have ability and desire to work with young children; and must be proficient in English and the dominant language of the children.

(c) Waiver of Staff Qualifications. Specific ECDP teaching staff requirements may be waived, for a period not to

exceed two years, by the Deputy to the Assistant Secretary - Indian Affairs/Director (Indian Education Programs) upon presentation of good cause by the applicant. Prior to the granting of such waiver, evidence that the quality of the educational program will not be diminished must be submitted to the Deputy to the Assistant Secretary - Indian Affairs/Director (Indian Education Programs).

(d) Availability of Personnel Qualification Records. The applicant shall maintain written documentation of current ECDP staff qualifications, participation in professional development activities, and work experience.

(e) Personnel Policy. The applicant shall distribute to all ECDP staff and maintain a copy of personnel policy approved by the Tribal Council or authorized board. Such policies shall include the following:

- (1) Job description;
- (2) Criteria and procedures for hiring, suspension or dismissal of any ECDP staff, based on regular, written performance evaluations;
- (3) Procedures for resolving staff grievances;
- (4) Provisions for vacations, earned leave time, sick leave;
- (5) Information on probation periods; hours of work, including staff meetings and training sessions, home visits and parent-teacher conferences; jury duty; acceptable breaks in instruction;

- (6) Confidential background checks;
- (7) Provisions for staff development; and other such pertinent information.

(f) Staff/Child ratios. The staff-child ratio shall be maintained throughout the school day. Children shall not be left unattended for any reason. For the purposes of this section, staff/child ratios should not exceed, but may be lower than, the following:

- (1) A ratio of 2:15 for center-based programs.
- (2) A ratio of 1:6 for a home satellite center (with no more than six children within the home center including family members at any one time).
- (3) A caseload for any home visitor will not exceed 12 families.
- (4) Ratios will differ for handicapped children. (Refer to 25 CFR Part 45).

35.22 Curriculum and instruction.

(a) The curriculum of each ECDP shall reflect the needs of the community. The ECDP curriculum shall provide for parent involvement in all activities in order to enhance the parental role as the principal influence in their child's education and development. Curriculum may include:

- (1) A statement which clearly identifies the needs of parents and children;

(2) Clearly stated educational and health goals with measurable objectives for parents and children. Objectives shall ensure cumulative and sequential experiences;

(3) Provisions for parent and community involvement in setting goals and objectives for the program;

(4) Developmentally appropriate materials and equipment in sufficient quantity to accomplish the goals and objectives of the ECDP program.

(b) The curriculum for ECDP shall offer opportunity to parents and children to participate in the learning process, to experience a variety of developmentally appropriate activities necessary for intellectual, social, physical and emotional growth and development, and to build upon their strengths as members of tribe and community.

(c) The ECDP curriculum shall provide positive experiences in language and social development.

(1) An ECDP program may provide services in the following components:

- (i) Prenatal care;
- (ii) Health screening;
- (iii) Educational services;
- (iv) Other educational service; and
- (v) Instruction in the language, art, and culture of the tribe.

(2) The ECDP curriculum shall provide for parent involvement in all activities to enhance their role as the principal influence on the child's education and development.

(3) The ECDP curriculum shall be designed to meet the individual differences and needs of participating children and their families.

(d) The ECDP shall provide developmental age-appropriate materials and equipment (both indoor and outdoor) of sufficient quantity, quality, variety and durability and they shall be arranged in such a manner to promote independent use by children, provide for teaching and learning interaction among children and staff.

35.23 Child evaluation.

(a) The ECDP program will provide for the measurement of skill and developmental growth of children in attendance.

(b) Individual description of children's development is written and compiled as basis for planning appropriate learning activities, as a means of facilitating optimal development of each child and as records for use in communications with parents. These may consist of anecdotal records, classroom and playground observations, individually administered assessments, locally or nationally developed progress checklist, data compilations of children's work, or case studies. An objective record of a child's performance will facilitate correct placement of a child within subsequent educational programs.

(c) Assessment in the ECDP will facilitate the transition from the ECDP to the kindergarten classroom by providing relevant placement and diagnostic data to the recipient school in a form compatible with the recipient school's evaluative and instructional programs.

(1) Developmental appropriate assessment tools utilized by the ECDP program shall provide an accurate and objective appraisal of the level of each participant.

(2) Evaluations shall be made at the beginning and end of each year of attendance. Initial assessment should be made within the first 45 days of attendance. Participants transferring into the program shall be evaluated within the first 45 days of attendance. Year end assessments shall be made in the final month of attendance.

(3) Assessment data is part of each participant's permanent record. Data shall be presented in an objective and accurate manner. All rights of privacy apply to this record. See 25 CFR Part 43.5.

(4) Evaluation data shall remain complete and intact within the ECDP files for a period of not less than three years. A copy of the transcript recording results of such data shall be forwarded to the child's recipient school upon departure from ECDP.

SUBPART C - Health and Safety Standards.

35.40 Health and safety policies.

(a) Each ECDP facility shall have a written health and safety policy statement which is provided to each staff member and parent. The following information shall be posted near a telephone which will be used for making emergency calls. The statement shall include:

(1) the name, address, and telephone number of the physician or registered nurse available for emergencies and consultation;

(2) the telephone number of the fire department, police station, poison prevention center, and ambulance service serving the center;

(3) the name and telephone number of any hospital where children will be taken in emergencies;

(4) the procedures to be followed in case of illness or emergency, when parent(s) can or cannot be reached;

(5) the procedures to be followed in the event of fire or other emergency;

(6) the procedures for using first aid equipment;

(7) a plan for dispensing medication, including the recording of any administration of prescribed medication;

(8) a plan for the care of mildly ill children at the center;

(9) the center director shall not admit a child or staff member to the center who has a diagnosed communicable disease, during that time when the disease is communicable.

(10) all toxic substances and harmful objects shall be kept in a secure place and out of the reach of the children.

(11) the Bureau of Indian Affairs' policy statement on Acquired Immune Deficiency Syndrome (AIDS);

(12) the procedure for identifying children's allergies and protecting children from exposure to foods, chemicals or other materials to which they are allergic;

(13) the procedure for reporting suspected child abuse or neglect.

(b) Each applicant shall have either a physician, a public health nurse, a registered nurse, or health clinic director who shall approve and aid in developing health care policies for the center.

(c) Medical Examinations and Immunization.

(1) The ECDP shall require, prior to enrollment, a complete physical examination of each participant which was conducted within the last 12 months.

(2) At admission, a physician's statement shall be required documenting that each participant has been successfully immunized consistent with state requirements.

(d) Administration of medication. Staff shall not administer prescription or non-prescription medication to a

child without the written permission of parent and order of a physician. When medication is administered, an adequate record shall be made.

(e) Personal Hygiene.

(1) Children shall have regular access to bathroom facilities. Handwashing and teeth brushing will be necessary and required health practice.

(2) The ECDP staff shall keep on hand extra clean indoor and outdoor clothing to change a child's clothing which becomes soiled or wet.

(3) Staff shall store soiled clothing in a covered container.

35.41 Food and food preparation.

Meals and/or snacks are planned to meet the participant's nutritional requirements as recommended by the Child Care Food Program of the U.S. Department of Agriculture in proportion to the amount of time the child is in the program each day.

(a) Meal Schedules. The ECDP shall provide regular, nutritional mid-morning or mid-afternoon snacks for children in care for less than four hours and shall regularly schedule meals, in addition to snacks, for children in care four hours or longer.

(b) Designated Person. The ECDP center director shall designate one person to be responsible for the food program of the center including proper preparation and storage of food

items, sanitary handling of cooking and eating utensils and healthful maintenance of kitchen and dining room facilities.

(c) Food Handling Requirement. Such designated person shall hold a valid food handler's permit and be in compliance with existing federal and state requirements.

35.42 Rest or quiet activity period.

(a) Opportunity for rest or quiet activity period shall be available to children in program who are in care for more than five hours.

SUBPART D - Transportation

35.60 Attendance areas.

(a) Every ECDP shall have a defined attendance area from which it recruits students. The attendance area for ECDP will be the area from which students will be transported to and from their homes to school. This is considered to within 1/2 hour bus ride from home to the Early Childhood Development Program, although in exceptional cases it may be necessary to allow more time.

(b) Vehicles used by the program for the transportation of children shall meet existing state motor vehicle codes and safety equipment requirements. Drivers shall be certified to meet state licensing requirement.

35.61 Child supervision.

(a) At all times when children are in transit, there shall be a staff member or volunteer present in addition to the

driver. When more than 20 preschool children are in transit, there shall be two staff members or volunteers present in addition to the driver.

(b) When children are entering or leaving the vehicle, the following safety precautions shall be taken:

(1) The accompanying staff member, volunteer, or the driver shall assure that the children are received by a parent or other responsible person as designated by the parent.

(2) Children shall enter and leave the vehicle from the curbside unless the vehicle is in a protected parking area or driveway. A staff member shall closely supervise children entering and leaving the vehicle at all times.

(3) Children shall not be left unattended in a vehicle.

35.62 Vehicle records and reports. The ECDP shall have on file verification of all of the following:

- (a) Annual vehicle inspection;
- (b) Vehicle insurance;
- (c) The license number of each driver;
- (d) Compliance by drivers with all tribal and state requirements, including a copy of each driver's driving record.

35.63 Volunteer vehicles - field trips.

- (a) Children shall be transported in vehicles that have complied with existing state motor vehicle codes and safety requirements.

(b) Vehicle seats used by passengers shall not face sideways.

(c) A truck shall not be used to transport children, except in the cab.

(d) There shall be no loose, heavy objects in the passenger area of any vehicle.

(e) The volunteer vehicle used shall be in compliance with state motor vehicle codes and safety equipment requirements specifying good operating condition of tires, brakes, exhaust system, windshield, windshield wipers and washers, horn, lights, and mirrors as contained in the state vehicle code.

(f) A first aid kit shall be provided in each volunteer vehicle used for field trip transportation.

(g) A child passenger restraint device shall be used for each child. Each restraint device shall be properly anchored to the vehicle seat and used according to the manufacturer's specifications. When a child passenger restraint device is unavailable or cannot be properly anchored in the volunteer vehicle, the child shall be properly restrained with a safety belt.

35.64 Volunteer vehicle operators.

(a) Volunteer vehicle drivers for field trip transportation shall:

(1) have a valid driver's license appropriate for the vehicle being driven;

- (2) have a safe driving record;
- (3) have a list of the children being transported in the vehicle, and the names and telephone numbers of parents or guardians;
- (4) have the written permission of the student's parent or guardian to transport the child;
- (5) be familiar with the contents of the first aid kit; and
- (6) current liability insurance coverage.

(b) Before the field trip begins, the center shall determine that each volunteer driver complies with section 35.64(a).

SUBPART E - Parent Involvement.

35.80 Parental Participation. The ECDP shall afford parents the opportunity to participate in the program. Parental participation shall be exclusively voluntary with respect to time and personal expense. Parents shall assist in the development of a Parent Participation Plan which shall include but not be limited to:

- (a) Classroom and home-based education activities,
- (b) Curriculum development,
- (c) Program planning and scheduling,
- (d) Parent training,
- (e) Staff-parent conferences,
- (f) Program evaluation, and
- (g) Home satellite programs.

35.81 Information dissemination. ECDP shall provide general information to parents including and not limited to:

- (a) Enrollment opportunities,
- (b) Pre-application procedures,
- (c) Identified concerns affecting young children within the community, and
- (d) Resources available to families of young children.

SUBPART F - Social Services.

35.90 Family Services and Referrals. In affecting a positive transition from the home environment to a formal kindergarten setting, the ECDP shall provide the following:

(a) Information to parents and families regarding available resources within the community in the areas of social services, health services, educational services and programs, and other pertinent information.

(b) A plan for coordinating with resources existing within or near the community.

(c) A referral system, with appropriate parent consent forms for social, health and educational services.

SUBPART G - Facilities.

35.100 Facility standards.

(a) Facilities shall be provided by the applicant which meet all Federal and State Health and Safety Codes, State licensing codes, and shall be evaluated annually.

(b) The ECDP shall ensure that indoor and outdoor environments are safe, clean, attractive and spacious. A minimum

of 35 square feet of usable classroom floor space indoors per child and a minimum of 75 square feet of play space outdoors per child are required. Space, light, ventilation, heat, and other physical arrangements must be consistent with the health, safety and developmental needs of the children and Federal and State codes.

SUBPART H - Standards for Application and Program Plans.

35.120 Application Submission.

(a) ECDP applications for the current fiscal year shall be submitted no later than 60 days from the effective date of this final rule. Approval of such applications and authorization of such program starts will be contingent upon the Bureau's receipt of appropriations for such purpose.

(b) Subsequent annual Fiscal Year applications must be submitted no later than July 30 prior to the upcoming fiscal year.

35.121 Criteria for approval of ECDP application. Eligible applicants are tribes, tribal organizations and consortia of tribes with 500 or more members. The following criteria which extend beyond those established by Public Law 93-638 shall be used in approving applications for ECDP. Applications shall be reviewed in accordance with these criteria, following the procedures specified. The purpose of this requirement is not intended as one which will create undue hardship on applicants but is to assure young Indian children and their families access

to quality services provided in a safe, culturally appropriate environment.

35.122 Service population description.

(a) All members of the proposed service population must qualify as eligible for services under Public Law 100-297 and must be described in the application with sufficient detail as to verify such eligibility. In addition to this documentation, the service population description must include the following:

(1) Number of eligible children, specified by age, in your attendance area.

(2) Description of method used to determine child-count.

(3) Description of any special circumstances influencing the proposed program such as geographic location, economic factors, or particular health concerns.

(b) Assurance of Non-Duplication of Services. Each application will contain an assurance that the proposed ECDP shall neither duplicate nor compete with existing early childhood services for the same service population. As part of this same assurance, each application shall identify the following:

(1) All existing early childhood educational services currently available by name, funding source, purpose and amount of funding, and funding period.

(2) Total number of children served by each program by program name and age of children.

(3) Total number of unserved children in the service population.

35.123 Program plan. Each initial application shall include a comprehensive plan for the operation of a program in sufficient detail to permit evaluation of the application in accordance with the minimum standards established for educational ECDP and set forth in Subpart B of this Part. Each subsequent year's application will not require the development of a new plan but the application will provide information and justification pertaining to any modification to the original plan submitted.

35.124 Content of program plan. The program plan shall adhere to the minimum ECDP standards and must include the following:

(a) Program Work Statement. The program work statement shall detail the program's plan of operation and must include the following:

(1) Program objectives which are specific to needs of the services population, clearly defined, and capable of quantitative measurement;

(2) Outreach, recruitment, and admissions procedures which include provisions for preference in enrollment of older children and handicapped children;

(3) Definition of program format, e.g. center-based, home-based, or other options.

(4) Educational Approach. A clear statement of the approach to be taken by the applicant which details:

- (i) educational model and base curriculum;
- (ii) program schedule and hours of instruction;
- (iii) materials;
- (iv) provision for bilingual instruction, as needed;
- (v) provision for culturally appropriate instruction;
- (vi) provision for instructional coordination with kindergarten and first grade program of instruction; and
- (vii) provision for evaluation of program constructs and activities.

(b) Parent Participation Plan. Each application shall contain a description of program plans to provide activities which aid parents in becoming active participants in their child's education and to provide opportunities for parents to receive training.

(c) Program Services. The plan shall indicate how certain required, supportive services will be provided. In each case, these program services are provided through existing resources or are budgeted for in the plan:

- (1) food services,
- (2) transportation,

- (3) health and nutrition,
- (4) social services, and
- (5) psychological services.

(d) Program Staffing. The applicant must provide information which indicates:

(1) A staffing plan to include staff classifications, staff/child ratio, staff time commitments, and job descriptions which specify qualifications for each position; and

(2) Resumes for the director and key education staff, if such persons have been selected.

(e) Program Staff Training Plan. The program plan shall detail provision for:

- (1) On-going assessment of staff training needs,
- (2) Orientation,
- (3) In-service training,
- (4) Evaluation of staff training, and
- (5) Career development opportunities.

(f) Program Administrative Plan. The program plan shall describe an effective plan for administering the program to include but not be limited to:

- (1) Organizational lines, illustrated by chart, for administering the program;
- (2) Employment practices; and
- (3) Financial accountability practices.

(g) Program Evaluation Plan. The program plan shall describe provisions of evaluation to include:

- (1) Assessing program effectiveness in meeting each objective,
- (2) Assessing program impact on the participants involved,
- (3) Collecting and analyzing data, and
- (4) Assessing and modifying program operations on the basis of evaluation findings.

(h) Program Budget. The program plan shall include a detailed, line-item budget which is adequate to support program objectives and is reasonable in cost.

(i) Program Facilities. The program plan shall identify facilities and outdoor space to be used to conduct the program. For center-based programs, the plan shall document that these meet state and federal standards for safety and child/space ratio.

35.125 Coordination of existing resources. In those instances when other relevant programs and services do exist, each application shall contain a description of the meaningful coordination of this program with all others. Applicants are expected to show plans to share personnel, equipment, facilities, transportation, and food services resources to the greatest extent, when such coordination is not prohibited by existing statutes or regulations.

35.126 Provision for parent participation. The applicant for this program shall provide for parent involvement. In the

event that this program is operated in coordination with other ECDP services, an overall Parent Advisory Committee may be selected, with proportional representation from parents of all children served by all such ECDP.

35.127 Provision for monitoring and evaluation.

(a) The Office of Indian Education Programs shall monitor and evaluate each site annually to assure sound program operation and services delivery.

(b) An annual schedule of visits shall be developed and tribes shall be notified prior to the monitoring and evaluation visits.

(c) An exit interview with the program director and tribal representative shall be held at the end of the site visit.

(d) A written report with findings and recommendations from the monitoring and evaluation visit shall be submitted to the Deputy to the Assistant Secretary - Indian Affairs/Director (Indian Education Programs) no later than 60 days after the date of the exit interview.

35.128 Technical assistance.

(a) The Office of Indian Education Programs shall provide technical assistance, upon request, to the applicants.

(b) A written request to the Deputy to the Assistant Secretary - Indian Affairs/Director (Indian Education Programs) for technical assistance must be submitted by the tribe.

(c) The request must be answered within 10 working days of its receipt.

35.129 Annual Reporting.

(a) An annual program and financial report shall be completed and submitted by each applicant to the Office of Indian Education Programs no later than 30 days following the close of each fiscal year.

(b) The Agency Superintendent for Education or the Area Education Programs Administrator, as appropriate, shall review each report and shall provide the Deputy to the Assistant Secretary - Indian Affairs/Director (Indian Education Programs) with a summative report by November 15 of each year which includes:

(1) A listing of those programs not in compliance.

(2) A detailed statement as to why each program is not in compliance and how it proposes to reach compliance.

(3) A plan of action outlining what actions the Agency or Area education offices will take to assist the programs to reach compliance.

(c) An annual statistical report will be developed by the Deputy to the Assistant Secretary - Indian Affairs/Director (Indian Education Programs) as a means of developing a national data base for the ECDP.

(d) The Secretary of the Interior shall submit to the appropriate committees of Congress in the annual budget request a detailed plan to bring all ECDP to the level required by the applicable standards established under this section.

SUBPART I - Assistance Formula.

35.140 Funding priorities. There is a need to provide financial assistance to eligible applicants for the assessment of needs, planning and development, and the implementation of ECDP. The following are funding priorities:

(a) The assessment of needs, planning and program development of new applicants.

(b) The start up of new programs, including one-time assistance.

35.141 - Funding Formula.

(a) The ECDP shall be funded based on a cost-per-participant (C-P-C) base unit in an adequate amount to ensure quality services.

(b) In accordance with ECDP standards, a child must receive a minimum of 450 contact hours during the contract year in order to be considered as a full (1.0) cost-per-child unit.

(c) The ECDP options such as Home-Base which provide less than 450 contact hours shall be funded at a rate of one half (.5) of the cost-per-child unit.

(d) There shall be a small program adjustment supplemental to the cost-per-participant unit of twenty-five per centum (.25) for eligible applicants which meet the following criteria:

(1) All applicants proposing to serve less than 25 children.

(2) Applicants proposing to serve less than fifty (50) children and documenting to the satisfaction of the Deputy to the Assistant Secretary - Indian Affairs/Director (Indian Education Programs), circumstances such as remoteness and other such factors which impact upon the probable quality of the program..

(e) One-time start up assistance shall be available for new programs for such items as transportation and other equipment, classroom set-up, food service equipment and facility sanitation and safety.

(f) In order to ensure a fair and equitable allocation of assistance to ECDP, the student count identification and reporting procedures developed for the ECDP program shall adhere to the ECDP method applicable to the Indian School Equalization Formula.

35.142 Information collection. Information collection requirement(s) contained in section(s) _____ will be submitted to the Office of Management and Budget for approval as required by 44 U.S.C. 3501 et seq. The collection of this information will not be required until it has been approved by the Office Management and Budget.

Assistant Secretary - Indian Affairs

3-39

CONSULTATION ITEM # 4

CONSULTATION ITEM/TOPIC:

Minimum Academy Standards for the Basic Education of Indian Children and National Criteria for Dormitory Situations.

POTENTIAL ISSUE OR CHANGE:

To amend the Bureau's academic student testing standard from fall and spring testing dates to spring testing dates only.

REASON FOR PROPOSING
POTENTIAL CHANGE OR ISSUE:

Currently, 25 CFR 36.42 - Counseling Services requires a fall and spring administration of a standardized achievement test. Schools have requested that the standard be amended to reflect only a spring administration of a test.

CURRENT OPTION(S) BEING
CONSIDERED BY THE BUREAU:

1. To publish the attached draft consultation document in the Federal Register as a proposed rule.

4-0

(4310-02)

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR PART 36

Minimum Academic Standards for the Basic Education of Indian Children and
National Criteria for Dormitory Situations

REN: 1076 - AC25

AGENCY: Bureau of Indian Affairs, Interior

ACTION: Proposed Rule.

SUMMARY: The Bureau of Indian Affairs is proposing to revise 25 CFR 36.42
which establishes minimum program standards for the annual assessment of
Student Academic Achievement within Bureau elementary and secondary schools.

DATES: Comments must be received on or before ninety (90) days after
publication in the FEDERAL REGISTER.

ADDRESSES: Written comments should be addressed to the Deputy to the
Assistant Secretary - Indian Affairs/Director (Indian Education Programs),
Bureau of Indian Affairs, Office of Indian Education Programs, Room 3525-
MIB, 1849 C Street, NW., Washington, DC 20240. If preferred, comments may
be delivered to Room 3512, Main Interior Building, 1849 C Street, N.W.,
Washington, D.C. 20240.

4-1

FOR FURTHER INFORMATION CONTACT: Mr. John Reimer, Bureau of Indian Affairs,
Office of Indian Education Programs, Department of the Interior Room 3525,
1849 C Street, NW., Washington, DC 20240, (202) 343-3550.

SUPPLEMENTARY INFORMATION: The Education Amendments of 1978, Public Law 95-561 authorize the establishment of academic standards for schools. This proposed rule is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary - Indian Affairs by 209 DM 8.

The policy of the Department of the Interior is, whenever practical, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments regarding the proposed rule to the locations identified in the Addresses section of this preamble.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq).

The Department of the Interior has determined that this proposed rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement is required pursuant to the National Environmental Policy Act of 1969.

The primary author of this document is Mr. John Reimer, Education Specialist, Bureau of Indian Affairs, Office of Indian Education Programs, Division of Planning, Oversight and Evaluation.

Accordingly, it is proposed to revise 25 CFR 36.42 Standard XV -Counseling services to read as follows:

36.42 (a)(1) - a nationally - normed and standardized achievement test which can be nationally correlated in the content areas of reading, language arts and mathematics to be administered in the Spring of each school year or within the appropriate spring norming dates of the test.

Date: _____

Assistant Secretary - Indian Affairs

CONSULTATION ITEM # 5

CONSULTATION ITEM/TOPIC:

Definition of Indian

POTENTIAL ISSUE OR CHANGE:

To standardize the definition of Indian and Indian tribe to be used in determining BIA education program eligibility.

REASON FOR PROPOSING
POTENTIAL CHANGE OR ISSUE:

There are different definitions of Indian and Indian tribe currently being used by the BIA to determine education program eligibility. The potential changes seeks to standardize the definition, within the confines of current statutory language.

CURRENT OPTION(S) BEING
CONSIDERED BY THE BUREAU:

1. To utilize the attached definition of Indian and Indian tribe in revising various program regulations through the formal rule making process.

5-0

Definition of Indian and Indian Tribe
for BIA Education Program Eligibility

Currently, the Bureau uses different definitions of the term Indian and Indian tribe to determine eligibility for education program services. Some of the definitions are prescribed by statute and others are defined within various education program regulations.

In cases where the definition for a given program is not prescribed by statute, the OIEP proposes to use the following PL 93-638 definition of Indian and Indian tribe to determine eligibility for education programs:

'Indian' means a person who is a member of an Indian tribe;

'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians;

If accepted by the Bureau, this definition of Indian and Indian tribe will be adopted for the various BIA education programs through the formal rule making process which includes publication in the Federal Register.

5-1

CONSULTATION ITEM # 6

CONSULTATION ITEM/TOPIC:

Distribution of Chapter I funds to Bureau funded schools.

POTENTIAL ISSUE OR CHANGE:

To revise the current method used in distributing Chapter I funds to Bureau operated, tribal contract and tribal grant schools for the 1991-92 school year.

REASON FOR PROPOSING
POTENTIAL CHANGE OR
ISSUE:

In accordance with the Bureau's Memorandum of Agreement with the Department of Education regarding the Chapter I program, the Bureau is to review potential options for the distribution of Chapter 1 project funds prior to the start of the 1991-92 school year.

CURRENT OPTION(S) BEING
CONSIDERED BY THE BUREAU;

1. To use formula one in distributing Chapter I funds.
2. To use formula two in distributing Chapter I funds.
3. To use formula three in distributing Chapter I funds.
4. To use formula four in distributing Chapter I funds.
5. To continue to use the current (ADM) method in distributing Chapter I funds.

6-0

Distribution of Chapter I Funds
To Bureau Funded Schools

Currently, each Bureau funded school's Chapter I funding amount is computed by:

1. Dividing the total amount of Chapter I funds available by the total nation wide ADM.
2. The nation wide per student funding amount is then multiplied by each school's prior school year Indian School Equalization Program instructional average daily membership (ADM).

For example, Little Wound Day School's amount is computed as follows:

$$\begin{aligned} \$26,664,416 / 38,205 &= \$697.93 \\ \$697.93 \text{ times } 606 &= \$422,946 \end{aligned}$$

The following five (5) different options are being considered by the Bureau for purposes of distributing the Chapter I funds for the 1991-92 school year:

OPTION 1: Funds would be distributed to schools on a pro-rata basis times the prior year's ISEP instructional weighted student units (WSU). See the column labeled option one on the attachment for each school's allocation under this option.

OPTION 2: Funds would be distributed to schools on a pro-rata basis times the prior year's ISEP instructional average daily membership (ADM), except that no school would receive less than \$35,000. See the column labeled option two on the attachment for each school's allocation under this option.

OPTION 3: Funds would be distributed to schools on a pro-rata basis times the prior year's ISEP instructional average daily membership (ADM), except that no school would receive less than \$30,000. See the column labeled option three on the attachment for each school's allocation under this option.

OPTION 4: Funds would be distributed to schools on a pro-rata basis times the prior year's ISEP instructional average daily membership (ADM), except that those schools with an enrollment of less than 50 ADM would receive an additional \$15,000 ; those schools with ADM from 51 through 100 would receive an additional \$10,000 ; and schools with ADM from 101 through 200 would receive an additional \$5,000. See the column labeled option 4 on the attachment for each school's allocation under this option.

OPTION 5: Funds would continue to be distributed under the current method. See column labeled current ADM option for each school's allocation under this option.

6-1

	NAME	ENROLLMENT	CURRENT		OPTION ONE		OPTION TWO		OPTION THREE		OPTION FOUR		
			ADM	OPTION	WSU	DIFFER	\$35,000 BASE	DIFFER	\$30,000 BASE	DIFFER	\$15/10/3,000	DIFFER	
101-06	Promise Day School	21	14,657		40.70	21,208	6,551	35,000	20,343	30,000	15,343	29,211	14,555
104-08	Duckwater Shoshone Elementary	24	16,750		44.10	22,980	6,229	35,000	18,250	30,000	13,250	31,242	14,491
104-06	Huerfano Dormitory	26	18,146		41.10	21,416	3,270	35,000	16,854	30,000	11,854	32,595	14,449
101-07	Pyramid Lake High School	28	19,542		48.90	25,481	5,939	35,000	15,458	30,000	10,458	33,948	14,406
110-02	Quileute Tribal School	28	19,542		53.65	27,956	8,414	35,000	15,458	30,000	10,458	33,948	14,406
109-03	Enemy Swim Day School	31	21,636		53.30	27,774	6,138	35,000	13,364	30,000	8,364	35,979	14,343
104-04	Twin Buttes Day School	32	22,334		51.40	26,784	4,450	35,000	12,666	30,000	7,666	36,655	14,322
101-01	White Horse Day School	33	23,032		52.80	27,513	4,481	35,000	11,968	30,000	6,968	37,332	14,300
105-01	San Ildefonso Day School	35	24,428		64.55	33,636	9,208	35,000	10,572	30,000	5,572	38,686	14,258
110-13	Wah-He-Lut Indian School	42	29,313		70.05	36,502	7,189	35,000	5,687	30,000	687	43,423	14,110
108-12	Chitimacha Day School	43	30,011		69.35	36,137	6,126	35,000	4,989	30,000	(11)	44,099	14,088
103-18	May Ah Shing School	44	30,709		117.05	60,992	30,283	35,000	4,291	30,605	(104)	44,776	14,067
105-02	Coeur d'Alene Tribal School	46	32,105		70.70	36,840	4,736	35,000	2,895	31,996	(109)	46,130	14,025
111-20	Yakima Tribal School	46	32,105		77.50	40,384	8,279	35,000	2,895	31,996	(109)	46,130	14,025
101-08	Swift Bird Day School	47	32,803		75.90	39,550	6,747	35,000	2,197	32,691	(111)	46,806	14,004
103-02	Ahfachkee Day School	47	32,803		70.25	36,606	3,803	35,000	2,197	32,691	(111)	46,806	14,004
110-16	Muckleshoot Tribal School	48	33,501		92.80	48,356	14,856	35,000	1,499	33,387	(114)	47,483	13,982

6-2

CODE	NAME	ENROLLMENT	CURRENT ADM OPTION	OPTION ONE		OPTION TWO		OPTION THREE		OPTION FOUR		
				WSU	DIFFER	\$35,000 BASE	DIFFER	\$30,000 BASE	DIFFER	\$15/10/5,000	DIFFER	
M25-20	Tesque Day School	52	36,292	87.33	45,506	9,214	36,072	(220)	36,169	(123)	45,190	8,898
M57-12	Blackwater Community School	53	36,990	86.91	45,287	8,297	36,766	(224)	36,865	(126)	45,867	8,876
M32-05	Cove Day School	60	41,876	89.50	46,637	4,761	41,622	(254)	41,734	(142)	50,604	8,728
F51-02	Sac & Fox Settlement School	65	45,365	109.93	57,282	11,917	45,091	(275)	45,211	(154)	53,988	8,622
M33-24	Little Singer Community School	65	45,365	97.18	50,639	5,273	45,091	(275)	45,211	(154)	53,988	8,622
S54-02	Miccosukee Indian School	66	46,063	105.02	54,724	8,660	45,784	(279)	45,907	(156)	54,664	8,601
M25-14	San Juan Day School	67	46,761	104.26	54,328	7,566	46,478	(283)	46,603	(159)	55,341	8,580
M36-18	Pine Springs Boarding School	67	46,761	102.06	53,181	6,420	46,478	(283)	46,603	(159)	55,341	8,580
S78-14	Standing Pine Day School	67	46,761	111.81	58,262	11,501	46,478	(283)	46,603	(159)	55,341	8,580
B04-06	Kickapoo Nation School	68	47,459	105.18	54,807	7,348	47,172	(288)	47,298	(161)	56,018	8,559
P04-02	Shoshone-Bannock Alternate Sc	69	48,157	116.00	60,445	12,288	47,865	(292)	47,994	(164)	56,694	8,537
M52-21	Theodore Roosevelt School	72	50,251	108.18	56,370	6,119	49,946	(305)	50,080	(171)	58,725	8,474
M34-16	Standing Rock Community School	76	53,043	111.82	58,267	5,224	52,721	(321)	52,863	(180)	61,432	8,389
M35-23	Black Mesa Community School	77	53,741	120.36	62,717	8,977	53,415	(326)	53,558	(182)	62,108	8,368
M65-15	Moencopi Day School	79	55,136	100.70	52,473	(2,664)	54,802	(334)	54,949	(187)	63,462	8,325
M32-17	Shiprock Alternative Kinderga	80	55,834	90.00	46,897	(8,937)	55,496	(338)	55,645	(190)	64,139	8,304
M65-21	Keams Canyon Boarding School	81	56,532	107.25	55,886	(647)	56,190	(343)	56,340	(192)	64,815	8,283
M32-09	Sanostee Day School	81	56,532	109.15	56,876	344	56,190	(343)	56,340	(192)	64,815	8,283
C59-06	Rocky Boy Tribsl High School	83	57,928	125.46	65,375	7,447	57,577	(351)	57,731	(197)	66,169	8,241
M65-13	Hopi Day School	85	59,324	113.98	59,393	69	58,965	(360)	59,123	(201)	67,522	8,198
M68-07	Havasupai School	85	59,324	102.38	53,348	(5,976)	58,965	(360)	59,123	(201)	67,522	8,198
F60-07	Hannahville Indian School	88	61,418	135.28	70,492	9,074	61,046	(372)	61,209	(209)	69,552	8,135
A06-18	Porcupine Day School	90	62,814	119.45	62,243	(571)	62,433	(381)	62,600	(213)	70,906	8,092
A10-07	Little Eagle Day School	90	62,814	113.65	59,221	(3,593)	62,433	(381)	62,600	(213)	70,906	8,092
A16-02	Theodore Jamerson Elementary	90	62,814	112.75	58,752	(4,062)	62,433	(381)	62,600	(213)	70,906	8,092
S78-13	Red Water Day School	90	62,814	132.00	68,783	5,969	62,433	(381)	62,600	(213)	70,906	8,092
A10-03	Rock Creek Day School	91	63,512	149.05	77,667	14,155	63,127	(385)	63,296	(216)	71,583	8,071
M20-22	Zia Day School	91	63,512	131.95	68,757	5,245	63,127	(385)	63,296	(216)	71,583	8,071
P13-02	Two Eagle River School	92	64,210	134.78	70,231	6,022	63,820	(389)	63,992	(218)	72,259	8,050
M25-19	Taos Day School	100	69,793	138.65	72,248	2,455	69,370	(423)	69,556	(237)	77,673	7,880
M32-04	Beclabito Day School	100	69,793	138.05	71,935	2,142	69,370	(423)	69,556	(237)	77,673	7,880
S78-15	Tucker Day School	100	69,793	146.75	76,468	6,675	69,370	(423)	69,556	(237)	77,673	7,880

H-9

100

C	NAME	ENROLLMENT	ADM	OPTION ONE	CURRENT		OPTION TWO		OPTION THREE		OPTION FOUR	
					WSU	WSU	DIFFER	\$35,000 BASE	DIFFER	\$30,000 BASE	DIFFER	\$15/10/5,000	DIFFER
P03-02	Paschal Sherman Indian School	101	70,491	138.20	72,013	1,522	70,064	(427)	70,252	(239)	73,350	2,859
H65-14	Hotevilla Bacavi Community Sc	102	71,189	124.35	64,796	(6,393)	70,757	(431)	70,947	(242)	74,027	2,838
H34-04	Bread Springs Day School	105	73,283	144.10	75,088	1,805	72,839	(444)	73,034	(249)	76,057	2,774
S57-02	Indian Island School	110	76,772	130.80	68,157	(8,615)	76,307	(465)	76,512	(261)	79,441	2,668
F53-14	Circle Of Life Survival Schoo	111	77,470	175.05	91,215	13,745	77,001	(470)	77,207	(263)	80,117	2,647
H36-14	Kinlichee Boarding School	111	77,470	144.50	75,296	(2,174)	77,001	(470)	77,207	(263)	80,117	2,647
H34-17	Dlo'ay Azhi Community School	112	78,168	157.10	81,862	3,694	77,694	(474)	77,903	(265)	80,794	2,626
H25-16	Santa Clara Day School	115	80,262	158.45	82,565	2,303	79,776	(486)	79,989	(273)	82,824	2,562
S56-02	Beatrice Rafferty School	118	82,356	156.20	81,393	(963)	81,857	(499)	82,076	(280)	84,854	2,499
S55-02	Indian Township School	119	83,054	170.10	88,636	5,582	82,550	(503)	82,772	(282)	85,531	2,477
C57-04	Busby School	121	84,450	150.35	78,344	(6,105)	83,938	(512)	84,163	(287)	86,885	2,435
H36-11	Hunters Point Boarding School	125	87,241	142.70	74,358	(12,883)	86,713	(529)	86,945	(296)	89,591	2,350
H54-11	Santa Rosa Ranch School	128	89,335	211.90	110,417	21,082	88,794	(541)	89,032	(303)	91,622	2,287
H57-14	Gila Crossing Day School	128	89,335	160.95	83,868	(5,467)	88,794	(541)	89,032	(303)	91,622	2,287
H34-10	Lake Valley Navajo School	131	91,429	177.65	92,570	1,141	90,875	(554)	91,118	(310)	93,652	2,223
H65-11	Polacca Day School	132	92,127	169.60	88,375	(3,752)	91,568	(558)	91,814	(313)	94,329	2,202
H34-02	Baca Community School	132	92,127	174.85	91,111	(1,016)	91,568	(558)	91,814	(313)	94,329	2,202
S78-22	Conehatta Day School	132	92,127	192.60	100,360	8,233	91,568	(558)	91,814	(313)	94,329	2,202
P10-14	Lummi Tribal School System	133	92,825	165.30	86,135	(6,690)	92,262	(563)	92,509	(315)	95,005	2,181
A11-02	Dunseith Day School	135	94,221	158.95	82,826	(11,395)	93,650	(571)	93,901	(320)	96,359	2,138
H32-15	Shiprock Alternative High Sch	138	96,314	210.65	109,766	13,451	95,731	(584)	95,987	(327)	98,389	2,075
H35-09	Nazlini Boarding School	139	97,012	166.50	86,760	(10,252)	96,424	(588)	96,683	(329)	99,066	2,053
S78-21	Bogue Chitto Day School	139	97,012	191.85	99,969	2,957	96,424	(588)	96,683	(329)	99,066	2,053
A04-05	White Shield School	140	97,710	172.30	89,782	(7,928)	97,118	(592)	97,378	(332)	99,742	2,032
H36-05	Crystal Boarding School	146	101,898	177.00	92,231	(9,667)	101,280	(618)	101,552	(346)	103,803	1,905
A02-05	Pierre Indian Learning Center	147	102,596	215.10	112,084	9,489	101,974	(622)	102,247	(348)	104,480	1,884
A06-02	American Horse School	150	104,690	184.40	96,087	(8,602)	104,055	(635)	104,334	(356)	106,510	1,820
H55-12	Salt River Day School	153	106,783	192.10	100,099	(6,684)	106,136	(647)	106,421	(363)	108,540	1,757
H33-11	Navajo Mountain Boarding Scho	153	106,783	194.65	101,428	(5,355)	106,136	(647)	106,421	(363)	108,540	1,757
H35-06	Low Mountain Boarding School	155	108,179	209.15	108,984	805	107,524	(656)	107,812	(367)	109,893	1,714
A14-02	Ft. Thompson Elementary School	157	109,575	184.05	95,905	(13,670)	108,911	(664)	109,203	(372)	111,247	1,672
H34-12	Mariano Lake Community School	159	110,971	213.80	111,407	436	110,298	(673)	110,594	(377)	112,600	1,629
F55-14	Lac Courte Oreilles Ojibwa Sc	163	113,763	248.60	129,540	15,778	113,073	(689)	113,376	(386)	115,307	1,545
H33-02	Chilchimbeto Day School	163	113,763	211.10	110,000	(3,763)	113,073	(689)	113,376	(386)	115,307	1,545
H20-05	Jemez Day School	173	120,742	242.60	126,414	5,672	120,010	(732)	120,332	(410)	122,075	1,333
H36-19	Seba Dalkai Boarding School	173	120,742	218.20	113,700	(7,042)	120,010	(732)	120,332	(410)	122,075	1,333
H57-13	Saba Blanca Day School	174	121,440	239.40	124,747	3,307	120,704	(736)	121,027	(412)	122,751	1,312
F53-15	Fond Du Lac Ojibway School	175	122,138	257.75	134,308	12,171	121,398	(740)	121,723	(415)	123,428	1,290
H32-16	Navajo Mission Academy	175	122,138	227.50	118,546	(3,592)	121,398	(740)	121,723	(415)	123,428	1,290
H36-24	Wide Ruins Boarding School	178	124,232	244.15	127,222	2,990	123,479	(753)	123,810	(422)	125,458	1,227
A04-03	Mandaree Day School	179	124,929	217.30	113,231	(11,699)	124,172	(757)	124,505	(424)	126,135	1,206
H52-12	John F. Kennedy Day School	183	127,721	259.65	135,298	7,577	126,947	(774)	127,287	(434)	128,842	1,121
A06-13	Loneman Day School	191	133,305	239.10	124,590	(8,714)	132,497	(808)	132,852	(453)	134,256	951
G08-02	Sequoyah High School	197	137,492	271.60	141,525	4,033	136,659	(833)	137,025	(467)	138,316	824
H34-13	Ojo Encino Day School	197	137,492	263.40	137,252	(240)	136,659	(833)	137,025	(467)	138,316	824
A14-04	Crow Creek Reservation High S	198	138,190	274.70	143,141	4,951	137,353	(838)	137,721	(469)	138,993	803
F58-04	Minominee Tribal School	200	139,586	324.75	169,221	29,635	138,740	(846)	139,112	(474)	140,345	760

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104

	NAME	ENROLLMENT	CURRENT ADM OPTION	OPTION ONE		OPTION TWO		OPTION THREE		OPTION FOUR	
				WSU	DIFFER	\$35,000 BASE	DIFFER	\$30,000 BASE	DIFFER	\$15/10/5,000	DIFFER
134-03	Dibe Yazhi Habitiin Olta, Inc	203	143,076	280.95	146,397	3,322	142,209	142,590	(486)	138,730	(4,346)
106-06	Wounded Knee School District	206	143,774	309.50	161,274	17,501	142,902	143,285	(488)	139,407	(4,367)
132-02	Aneth Community School	210	146,565	268.05	139,675	(6,890)	145,677	146,068	(498)	142,114	(4,452)
133-15	Rocky Ridge Boarding School	220	153,545	285.65	148,847	(4,698)	152,614	153,023	(521)	148,881	(4,664)
154-25	Tohono O'odham High School	222	154,940	338.35	176,307	21,367	154,001	154,414	(526)	150,234	(4,706)
165-12	Second Mesa Day School	223	155,638	282.15	147,023	(8,616)	154,695	155,110	(529)	150,911	(4,727)
132-07	Red Rock Day School	223	155,638	274.40	142,984	(12,654)	154,695	155,110	(529)	150,911	(4,727)
108-04	Marty Indian School	227	158,430	293.60	152,989	(5,441)	157,470	157,892	(538)	153,618	(4,812)
55-15	Oneida Tribal School	227	158,430	324.75	169,221	10,791	157,470	157,892	(538)	153,618	(4,812)
134-05	Chi-Ch'ul-Tah / Jones Ranch	239	166,805	304.05	158,434	(8,371)	165,794	166,239	(566)	161,739	(5,066)
109-05	Tiospa Zina Tribal School	241	168,201	305.05	158,955	(9,246)	167,182	167,630	(571)	163,092	(5,109)
112-02	Wahpeton Indian Boarding Scho	242	168,899	329.25	171,566	2,667	167,875	168,326	(574)	163,769	(5,130)
134-15	Pueblo Pintado Community Scho	243	169,597	319.45	166,459	(3,138)	168,569	169,021	(576)	164,446	(5,151)
120-04	Isleta Elementary School	248	173,087	342.40	178,418	5,331	172,038	172,499	(588)	167,829	(5,257)
101-05	Takini School	24	173,785	380.00	198,010	24,226	172,731	173,194	(590)	168,506	(5,278)
152-11	Cibecue Community School	25	179,368	354.50	184,723	5,355	178,281	178,759	(609)	173,920	(5,448)
135 04	Cottonwood Day School	257	179,368	327.95	170,888	(8,480)	178,281	178,759	(609)	173,920	(5,448)
120-02	Sky City Community School	267	186,347	382.00	199,053	12,705	185,218	185,715	(633)	180,687	(5,660)
106-23	Crazy Horse School	280	195,420	363.10	189,204	(6,216)	194,236	194,757	(664)	189,485	(5,935)
133-04	Dennehotso Boarding School	287	200,306	367.40	191,445	(8,861)	199,092	199,626	(680)	194,222	(6,084)
110-15	Puyallup Nation Education Sys	288	201,004	377.45	196,682	(4,322)	199,786	200,321	(683)	194,899	(6,105)
115-02	Lower Brule Day School	300	209,379	367.35	191,419	(17,960)	208,110	208,668	(711)	203,020	(6,359)

5-9

CURRENT			OPTION ONE		OPTION TWO		OPTION THREE		OPTION FOUR				
CODE	NAME	ENROLLMENT	ADM	OPTION	WSU	DIFFER	\$35,000 BASE	DIFFER	\$30,000 BASE	DIFFER	\$15/10/5,000	DIFFER	
420-12	San Felipe Day School	303			411.90	214,633	3,160	210,191	(1,282)	210,755	(718)	205,050	(6,423)
433-13	Red Lake Day School	305			383.45	199,808	(13,061)	211,579	(1,290)	212,146	(723)	206,403	(6,465)
458-10	St. Stephens Indian School	308			392.25	204,394	(10,569)	213,660	(1,303)	214,232	(730)	208,433	(6,529)
401-02	Riverside Indian School	314			422.90	220,365	1,215	217,822	(1,328)	210,406	(744)	212,494	(6,656)
432-11	Toadlena Boarding School	317			409.05	213,148	(8,096)	219,903	(1,341)	220,493	(751)	214,524	(6,720)
434-25	To'Hajiilee-We (Canoncito)	318			421,942	462.55	19,084	220,597	(1,345)	221,188	(754)	215,201	(6,741)
454-22	San Simon School	319			403.00	209,995	(12,644)	221,290	(1,349)	221,884	(756)	215,877	(6,762)
434-18	Na'Neelzhiin Ji'Olta (Torreon)	325			415.25	216,378	(10,449)	225,453	(1,375)	226,057	(770)	219,938	(6,889)
434-27	Alamo Navajo School	331			485.85	253,167	22,152	229,615	(1,400)	230,230	(784)	223,998	(7,017)
433-22	Greyhills High School	334			478.20	249,180	16,072	231,696	(1,413)	232,317	(792)	226,028	(7,080)
433-07	Kaibeto Boarding School	348			432.00	225,107	(17,773)	241,408	(1,472)	242,055	(825)	235,503	(7,377)
434-24	Dzilth-na-o-dith-ahle Communit	351			459.90	239,645	(5,329)	243,489	(1,485)	244,142	(832)	237,533	(7,441)
433-08	Kayenta Boarding School	356			451.15	235,085	(13,378)	246,957	(1,506)	247,619	(844)	240,917	(7,547)
475-02	Pine Hill Schools	363			498.30	259,654	6,306	251,813	(1,535)	252,488	(860)	245,654	(7,695)
402-02	Chemawa Indian School	363			520.40	271,170	17,821	251,813	(1,535)	252,488	(860)	245,654	(7,695)
454-21	Santa Rosa Boarding School	366			470.45	245,142	(10,300)	253,894	(1,548)	254,575	(867)	247,684	(7,759)
411-08	Ojibwa Indian School	368			432.85	225,549	(31,289)	255,282	(1,557)	255,966	(872)	249,037	(7,801)
432-10	Tecnospos Boarding School	381			505.25	263,276	(2,636)	264,300	(1,612)	265,008	(903)	257,835	(8,076)
460-02	Sherman Indian High School	382			501.10	261,113	(5,496)	264,993	(1,616)	265,704	(905)	258,512	(8,098)
436-08	Greasewood/Toyei Consolidated	382			495.50	258,195	(8,414)	264,993	(1,616)	265,704	(905)	258,512	(8,098)
435-21	Many Farms High School	384			515.20	268,460	455	266,381	(1,624)	267,095	(910)	259,865	(8,140)
411-11	Turtle Mountain High School	399			561.20	292,430	13,956	276,786	(1,688)	277,528	(946)	270,016	(8,458)
405-03	Four Winds Community School	407			523.20	272,629	(11,428)	282,336	(1,722)	283,093	(965)	275,430	(8,628)
435-07	Lukachukai Boarding School	408			503.20	262,207	(22,548)	283,030	(1,726)	283,788	(967)	276,107	(8,649)
407-09	St. Francis Indian School	410			511.90	266,741	(19,410)	284,417	(1,734)	285,180	(972)	277,460	(8,691)
434-23	Crownpoint Community School	411			524.95	273,541	(13,308)	285,111	(1,739)	285,875	(974)	278,137	(8,712)
433-09	Leupp Boarding School	418			509.55	265,516	(26,218)	289,967	(1,768)	290,744	(991)	282,874	(8,861)
434-20	Wingate Elementary School	419			574.50	299,360	6,928	290,660	(1,772)	291,440	(993)	283,551	(8,882)
421-02	Laguna Elementary School	440			561.50	292,586	(14,503)	305,228	(1,861)	306,046	(1,043)	297,762	(9,327)
432-06	Mendameez Boarding School	440			558.20	290,867	(16,222)	305,228	(1,861)	306,046	(1,043)	297,762	(9,327)
453-13	Chief Bug-O-Nay-Ge Shig School	455			568.10	296,026	(21,533)	315,634	(1,925)	316,480	(1,078)	307,913	(9,645)
435-12	Rough Rock Demonstration Scho	458			648.65	337,999	18,347	317,715	(1,937)	318,566	(1,085)	309,943	(9,709)
435-11	Rock Point Community School	471			637.75	332,319	3,594	326,733	(1,992)	327,609	(1,116)	318,741	(9,984)
435-20	Chinle Boarding School	484			609.90	317,807	(19,991)	335,751	(2,047)	336,651	(1,147)	327,538	(10,260)
465-22	Hopi High School	505			674.95	351,703	(752)	350,319	(2,136)	351,258	(1,197)	341,750	(10,705)
436-06	Dilcon Boarding School	518			634.80	330,782	(30,746)	359,337	(2,191)	360,300	(1,228)	350,547	(10,981)
403-02	Flandreau Indian School	529			756.45	394,171	24,966	366,967	(2,238)	367,951	(1,254)	357,991	(11,214)
401-02	Santa Fe Indian School	545			726.35	378,486	(1,885)	378,067	(2,305)	379,080	(1,292)	368,819	(11,553)
410-08	Stranding Rock Community School	551			827.45	431,168	46,608	382,229	(2,331)	383,254	(1,306)	372,879	(11,680)
434-21	Wingate High School	590			864.50	450,474	38,695	409,283	(2,496)	410,380	(1,398)	399,272	(12,507)
478-23	Choctaw Central School	597			870.00	453,340	36,675	414,139	(2,525)	415,249	(1,415)	404,009	(12,655)

CODE	NAME	CURRENT		OPTION ONE		OPTION TWO		OPTION THREE		OPTION FOUR		DIFFER
		ENROLLMENT	ADM OPTION	WSU	WSU	DIFFER	\$35,000 BASE	DIFFER	\$30,000 BASE	DIFFER	\$15/10/5,000	
A06-05	Little Wound Day School	606	422,946	825.75	430,282	7,336	420,382	(2,563)	421,509	(1,436)	410,099	(12,846)
W36-03	Chuska/Tohatchi Consolidated	612	427,123	742.70	387,006	(40,127)	424,544	(2,589)	425,683	(1,450)	414,160	(12,973)
W33-16	Shonto Boarding School	657	458,540	819.25	426,895	(31,645)	455,761	(2,779)	456,983	(1,557)	444,613	(13,927)
A06-16	Pine Ridge School	721	503,208	956.50	498,413	(4,795)	500,158	(3,050)	501,499	(1,709)	487,924	(15,284)
A01-12	Cheyenne-Eagle Butte School	823	574,396	1,101.70	574,074	(323)	570,915	(3,481)	572,446	(1,951)	556,950	(17,446)
W33-19	Tuba City Boarding School	831	579,980	984.45	512,977	(67,003)	576,465	(3,515)	578,010	(1,969)	562,364	(17,616)
S52-03	Cherokee Central School	929	648,377	1,185.40	617,688	(30,689)	644,447	(3,930)	646,175	(2,202)	628,684	(19,693)
A11-09	Turtle Mt. Elem. & Middle Sch	955	666,523	1,178.80	614,249	(52,274)	662,484	(4,040)	664,260	(2,263)	646,279	(20,244)
		38,205	26,664,416	51,171	26,664,430	14	26,667,021	2,605	26,665,293	877	26,664,540	124
OPTIONS												
GRANT AWARD		ENROLLMENT		WSU		\$35,000 BASE		\$30,000 BASE		RANGE	NUMBER	BASE
ADJUSTMENTS		27,347,246		27,347,246		27,347,246		27,347,246		1 - 50	17	15,000
BASE ADJUSTMENTS		682,706		682,706		682,706		682,706		51 - 100	32	10,000
AVAILABLE FUNDS		0		0		161,585		90,610		101 - 200	47	5,000
PER ADM		26,664,540		26,664,540		26,502,955		26,573,930		201 - 300	22	0
PER WSU		697.93		521.08		693.70		695.56		301 - 400		0
										401 - 999		0
										TOTAL		

2-9

111

TRIBAL CONSULTATION BOOKLET



BUREAU OF INDIAN AFFAIRS

Office of
Indian Education
Programs

JULY, 1991

BEST COPY AVAILABLE

TRIBAL CONSULTATION BOOKLET



BUREAU OF INDIAN AFFAIRS

Office of
Indian Education
Programs

JULY, 1991

ADDENDUM

May 15, 1991

TO ALL ADDRESSEES:

Two telephone numbers provided by the Federal Register Notice included in the enclosed July, 1991 consultation booklet have changed. The changed numbers apply to the Alaska and Minneapolis contact persons and, are as follows:

ALASKA, Anchorage	Carol Baker	907/271-4115
MINNESOTA, Minneapolis	Betty Walker	612/373-1090

In addition, the name of one of the SOUTH DAKOTA contact persons was misspelled. "TERRY POITRA" is corrected to read "TERRY PORTRA".

TRIBAL CONSULTATION BOOKLET

TABLE OF CONTENTS

	Page
Tribal Leader/School Board Letter	i-1
Consultation Item # 1	1-1

EXHIBIT	Page
1-A	1-5
1-B	1-7
1-C	1-11
1-D	1-20
1-E	1-21
1-F	1-22
1-G	1-23
1-H	1-24
1-I	1-25
1-J	1-26

Consultation Item # 2	2-1
---------------------------------	-----

EXHIBIT	Page
2-A	2-3
2-B	2-5

Consultation Item # 3	3-1
---------------------------------	-----

EXHIBIT	Page
3-A	3-3
3-B	3-5
3-C	3-15
3-D	3-24

Consultation Item # 4	4-1
---------------------------------	-----

EXHIBIT	Page
4-A	4-3
4-B	4-4
4-C	4-17



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
WASHINGTON, D.C. 20245



IN REPLY REFER TO:

MAY 2 - 1991

Dear Tribal Leader/School Board:

During the months of May, 1990, and January, 1991, the Bureau conducted consultation meetings across Indian country regarding education issues and program modifications which were being considered by the Bureau. We were pleased by the many insightful and worthwhile comments received as a result of these two (2) meetings, each of which was held in eleven different locations.

The Office of Indian Education Programs (OIEP) will continue these efforts in eleven consultation meetings across Indian country on July 17, 1991. This letter is for the purpose of providing information regarding the meetings.

Consultation Process:

In an effort to manage comments and input from Indian country, the OIEP will continue the following basic process for the July 17, 1991 meetings.

1. A Notice announcing the consultation meeting will be published in the Federal Register.
2. A Tribal Consultation Booklet which includes consultation items/-topics, will be mailed to the Tribes and Indian School Boards.
3. The eleven regional meetings will cover items included in the consultation package with the Tribes, school boards, Indian organizations, parents, contractors and other interested parties. The Tribes and school boards are encouraged to attend the meetings and provide oral and/or written comments on each consultation item/topic; and may wish to attend the regional meetings before submitting their written comments.

July, 1991 Consultation Booklet:

Enclosed with this letter is the Tribal Consultation Booklet for the July, 1991 meetings. The booklet contains materials and information on each of four (4) items/topics scheduled for consultation. The booklet includes a table of contents and separates each of the items into sections. At the beginning of each section, summary information regarding the item is presented which includes the consultation item/topic by number, potential change being considered by the Bureau, the Bureau's reason for proposing the change and current option(s) being considered by the Bureau.

July, 1991 Consultation Items:

I have chosen the following four (4) items/topics for consultation during the July 17 meetings:

1. Indian School Equalization Program (ISEP) - Proposed changes to 25 CFR 39.
2. Minimum Academic Standards for the Basic Education of Indian Children and National Criteria for Dormitory Situations - Proposed changes to 25 CFR 36.
3. Long-range Education Plan - Proposed plan to support the BIA FY 1991 Budget goal and initiatives.
4. Johnson-O'Malley (JOM) - Proposed changes to 25 CFR 273.

Format for Comments and Responses:

Since we anticipate receiving comments from several hundred respondents, it would assist us if written comments and suggestions provide the following information:

1. Consultation Item/topic being addressed.
2. Name of the respondent.
3. Name and address of the organization the respondent represents.

I am enclosing a draft copy of the Federal Register Notice announcing the July 17, 1991 consultation meetings. Specific meeting locations can be obtained by contacting the local individual contact identified in the notice for each meeting site.

Sincerely,


ACTING Director, Office of Indian Education
Programs

[4310-02]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Tribal Consultation on Indian Education Topics

AGENCY: Bureau of Indian Affairs, Interior

ACTION: Notice of tribal consultation meetings

SUMMARY: Notice is hereby given that the Bureau of Indian Affairs (BIA) will conduct follow-up consultation meetings to obtain written and oral comments concerning changes in Indian education programs currently under consideration by the BIA; and, other potential changes or issues. Changes currently under consideration and included in consultation booklets being issued are as follows:

1. Indian School Equalization Program (ISEP) - Proposed changes to 25 CFR 39.
2. Minimum Academic Standards for the Basic Education of Indian Children and National Criteria for Dormitory Situations - Proposed changes to 25 CFR 36.
3. Long-range Education Plan - Proposed plan to support the BIA FY 1991 budget initiative.
4. Johnson O'Malley (JOM) - Proposed change to 25 CFR 273.

DATE AND TIME: July 17, 1991. 9:00 A.M. until 6:00 P.M. (local time) at each site listed below.

MEETING SITES:

<u>Locations</u>	<u>Local Contact</u>	<u>Telephone</u>
1. ALASKA - Anchorage	Carol Baker	907/586-7193

i-3

2.	ARIZONA - Phoenix	Harvey Jacobs	602/562-3557
3.	CALIFORNIA - Sacramento	Fayette Babby	916/978-4680
4.	MINNESOTA - Minneapolis	Betty Walker	612/349-3635
5.	MONTANA - Billings	Larry Parker	406/657-6375
6.	NEW MEXICO - Albuquerque	Val Cordova	505/766-3034
7.	NEW MEXICO - Gallup	Larry Holman	505/786-6150
8.	OKLAHOMA - Oklahoma City	Jim Baker Sam Johnson	918/687-2460 405/247-6673
9.	OREGON - Portland	Van Peters	503/230-5682
10.	SOUTH DAKOTA - Aberdeen	Jim Davis Terry Poitra	701/477-6471 605/856-4478
11.	TENNESSEE - Nashville	Lena Sanders	703/235-3233

Written comments concerning the consultation hearings must be received no later than August 26, 1991, in the Bureau of Indian Affairs, Office of Indian Education Programs, Room 3511, MS 3530 MIB, 1849 C Street, NW., Washington, DC 20240, ATTN: Mr. Edward Parisian, Director, Office of Indian Education Programs.

FOR FURTHER INFORMATION CONTACT: Edward Parisian, Joe Christie or Jim Martin at the above address or call (202) 208-6123, 208-6175, or 208-3550.

SUPPLEMENTARY INFORMATION: The meetings are a follow-up to similar meetings conducted by the BIA in May, 1990 and January, 1991. The purpose of the consultation is to provide, as required by 25 U.S.C. 2010(b), Indian tribes, school boards, parents, Indian organizations and other interested parties with an opportunity to comment on potential changes or issues being considered by the BIA regarding Indian education programs.

A consultation booklet for the July meetings is being distributed to Federally recognized Indian tribes and Bureau-funded schools. The booklets will also be available from local contact persons and at each meeting.

DATE

ASSISTANT SECRETARY - INDIAN AFFAIRS

Consultation Item # 1

CONSULTATION ITEM/TOPIC:	Indian School Equalization Program (ISEP)
POTENTIAL ISSUE OR CHANGE:	To revise selected sections of the ISEP regulations. (25 CFR 39)
REASON FOR PROPOSING ISSUE OR CHANGE:	To incorporate requirements of recently enacted Federal legislation and audit recommendations of the Office of the Inspector General.
CURRENT OPTION(S) BEING CONSIDERED BY THE BUREAU:	To publish the attached revisions in the Federal Register as proposed amendments to 25 CFR 39 - The Indian School Equalization Program.

BACKGROUND

Public Law 100-297, the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, signed into law on April 28, 1988, makes a number of changes to the Indian School Equalization Program (ISEP) administered by the Bureau of Indian Affairs' (BIA), Office of Indian Education Programs (OIEP).

Public Law 100-427, enacted September 09, 1988, also makes changes to the ISEP.

Additionally, reports of audits conducted by the Office of the Inspector General (OIG) included recommendations which impact on the Intense Bilingual Education Program and Intensive Residential Guidance Program (Reports No. W-IA-BIA-40-84 and No. H-IA-BIA-08-88a, respectively). Both programs are funded through the ISEP.

As a result of these legislative changes and OIG audit recommendations, the OIEP is proposing to amend applicable sections of 25 CFR 39 - The Indian School Equalization Program, to incorporate requirements of the statutes and OIG audits. The proposed changes are shown in the attached Exhibits 1-A through 1-J. Exhibit 1-J is the full text of 25 CFR 39.

PROPOSED CHANGES

The proposed changes, including an explanation for each and sections of the regulations which will be affected by the changes are described as follows:

SECTION PROPOSED CHANGE AND THE REASON FOR PROPOSING THE CHANGE

*****GIFTED AND TALENTED PROGRAM***** (EXHIBIT 1-A, page 1-5)

- 39.2 Proposed Change 1.1: To amend subsection (p) by adding gifted and talented as a program for which a separately computable dollar amount may be generated by a school.
- 39.11 Proposed Change 1.2: To amend the section by adding a subsection (k) to define the gifted and talented program.

- 39.12 Proposed Change 1.3: To amend this section by adding gifted and talented as a supplemental program with an add-on weighted unit for each gifted and talented student.

Reason for Changes: P.L. 100-297 amended 25 USC 2008(c) to adjust the ISEP formula and provide an overall weighted unit of up to 2.0, including the basic instructional program weight, for each gifted and talented student.

*****INTENSE BILINGUAL*****
(EXHIBIT 1-B, page 1-7)

- 39.11 Proposed Change 1.4: To amend by modifying subsection (g) to clarify the program.

Reason for Change: OIG audit # W-IA-BIA-40-84 required the clarification.

*****INTENSIVE RESIDENTIAL GUIDANCE*****
(EXHIBIT 1-C, page 1-11)

- 39.11 Proposed Change 1.5: To amend by modifying subsection (h) to clarify the program.

Reason for Change: OIG audit No. H-IA-BIA-08-88a required the clarification.

*****GRADES 7 AND 8*****
(EXHIBIT 1-D, page 1-20)

- 39.11 Proposed Change 1.6: To amend subsection (e) by changing the grouping of "Grades 4-8" to "Grades 4-6" and "Grades 7-8" to provide a weight factor of 1.2 for students in grades 7 and 8.

- 39.12 Proposed Change 1.7: To amend this section by changing the grade groupings to include grades 4-6 and grades 7-8 as separate basic programs with specified weighted units.

Reason for Changes: P.L. 100-297 Section 5107 amended 25 USC 2008(c) to require the 1.2 weight for grades 7 and 8 beginning in Fiscal Year 1990.

*****SMALL SCHOOL ADJUSTMENTS*****
(EXHIBIT 1-E, page 1-21)

- 39.14 Proposed Change 1.8: To amend this section by adding a subsection (d) to modifying the procedure for computing the small school adjustment for schools with less than 50 students.

Reason for Change: P.L. 100-297 Section 5107 amends 25 USC 2008(c) to require that a school with an enrollment less than 50 eligible students be considered as having an ADM of 50 eligible Indian students for purposes of the small school adjustment beginning in Fiscal Year 1990.

*****GENERAL*****
(EXHIBIT 1-F, page 1-22,

- 39.15 Proposed Change 1.9: (Alaska Schools) - To remove all provisions of this section and reserve the section.

Reason for Change: Alaska schools no longer receive ISEP funds.

(EXHIBIT 1-G, page 1-23)

- 39.19 Proposed Change 1.10: (Phase-in Provisions) - To remove all provisions of this section and reserve the section.

Reason for Change: The ISEP formula is fully implemented.

(EXHIBIT 1-H, page 1-24)

- 39.80 Proposed Change 1.11: (Contingency fund) - To add a new section to Part 39 to provide for an emergency and unforeseen contingency fund.

Reason for Change: P.L. 100-427 amended 25 USC 2008(c) to provide for a fund to meet emergencies and unforeseen contingencies.

(EXHIBIT 1-I, page 1-25)

- 39.90 Proposed Change 1.12: (National School Board Training) - To amend section 39.90 by providing for national school board training.

Reason for Change: P.L. 100-297 Section 5108 amends 25 USC 2008(c) to add provisions for national school board training.

(EXHIBIT 1-J, page 1-26)

This Exhibit provides the full text of 25 CFR 39.

EXHIBITS

EXHIBIT 1-A

GIFTED AND TALENTED PROGRAM - Proposed Changes

Sec 39.2 Definitions.

<u>Current</u>	<u>Proposed</u>
NONE	To amend by adding to subsection (p) the following: (12) Gifted and Talented education costs.

Sec 39.11 Definitions

<u>Current</u>	<u>Proposed</u>
NONE	To amend by adding a subsection (k) to read as follows: (k) "Gifted and Talented" means a weighted program for a student who is present during the count week, is enrolled on a full-time basis, and gives evidence of high performance capability in such areas as intellectual, creative, artistic or leadership capacity or in specific academic fields, and who requires services or activities not ordinarily provided by the school in order to fully develop such capabilities."

EXHIBIT 1-A (Cont'd)

GIFTED AND TALENTED PROGRAM - Proposed Changes

Sec 39.12 Entitlement for instructional purposes

<u>Current</u>	<u>Proposed</u>																		
NONE	To amend by adding Gifted and Talented to the supplemental programs to read as follows:																		
	<table> <tr> <th><u>Supplemental program</u></th><th><u>Add-on Weight</u></th></tr> <tr> <td>Intense bilingual (no change)</td><td></td></tr> <tr> <td>EXCEPTIONAL CHILD PROGRAMS (no change)</td><td></td></tr> <tr> <td>GIFTED AND TALENTED PROGRAMS</td><td></td></tr> <tr> <td>Kindergarten</td><td>1.0</td></tr> <tr> <td>Grades 1 to 3</td><td>.8</td></tr> <tr> <td>Grades 4 to 6</td><td>1.0</td></tr> <tr> <td>Grades 7 to 8</td><td>.8</td></tr> <tr> <td>Grades 9 to 12</td><td>.7</td></tr> </table>	<u>Supplemental program</u>	<u>Add-on Weight</u>	Intense bilingual (no change)		EXCEPTIONAL CHILD PROGRAMS (no change)		GIFTED AND TALENTED PROGRAMS		Kindergarten	1.0	Grades 1 to 38	Grades 4 to 6	1.0	Grades 7 to 88	Grades 9 to 127
<u>Supplemental program</u>	<u>Add-on Weight</u>																		
Intense bilingual (no change)																			
EXCEPTIONAL CHILD PROGRAMS (no change)																			
GIFTED AND TALENTED PROGRAMS																			
Kindergarten	1.0																		
Grades 1 to 38																		
Grades 4 to 6	1.0																		
Grades 7 to 88																		
Grades 9 to 127																		

EXHIBIT 1-B

INTENSE BILINGUAL PROGRAM

Sec 39.11 Definitions

Current

Proposed

To amend by modifying subsection (g) to read as follows:

g) "Intense Bilingual" means a weighted program of instruction to assist Indian children of Limited English Proficiency to improve their English language skills, over a period not to exceed three (3) years, to the level that would allow them to learn successfully in classrooms in which instruction is in English.

Bilingual programs with goals other than English proficiency are recognized, but will not be funded under ISEP.

(A) For the purpose of this part the following definitions shall apply to the bilingual education program:

(1) "Bilingual Program" means a program for a student whose primary language is not English and who is receiving academic instruction through oral and/or written forms in an Indian language, as well as specialized instruction in English.

(2) "Limited English Proficiency" (LEP) refers to a student who:

i) comes from a home in which the primary language is other than English.

(ii) comes from a home in which a language other than English has had a significant impact on the level of English language proficiency; and

(iii) has sufficient difficulty in understanding, speaking, reading, or writing the English language to deny them the opportunity to learn successfully in

EXHIBIT 1-B (Cont'd)

INTENSE BILINGUAL PROGRAM

Sec 39.11 Definitions

Current

Proposed

classrooms in which instruction is in English (as determined by results on a nationally accepted test to determine English proficiency).

(3) "Bilingual Education Program" means daily instruction designed for elementary and secondary children of limited English proficiency. Instruction will have the following characteristics.

(i) To the extent necessary to allow children to achieve competency in the English language, instruction is given in English as well as the native language of the children.

(ii) The instruction is given with appreciation for the cultural heritage of the children of Limited English Proficiency.

(iii) Instructional techniques and approach are appropriate to the needs of the children.

(A) Evaluation. In order to be eligible for bilingual funding under ISEP, a school must establish and maintain a plan for evaluation of the achievement and progress of each child. The evaluation process must be approved by the Education Line Officer, and should provide for:

(1) measuring the accomplishment of the instructional objectives; and

(2) assessing the students' progress in improving their English language and cognitive skills.

EXHIBIT 1-B (Cont'd)

INTENSE BILINGUAL PROGRAM

Sec 39.11 Definitions

Current

Proposed

(B) Entry and exit assessment. The school shall identify Limited English Proficient children and determine their level of proficiency.

(1) Entry assessment. Identification of LEP children shall include:

(i) review of information provided on student application form (home language survey);

(ii) written teacher referral; and

(iii) use nationally accepted test to determine English proficiency instruments to determine; (a) oral/aural proficiency, (b) subject/content knowledge, and (c) English literacy.

(2) Exit assessment. The assessment of a students' readiness to exit from the Bilingual Education Program and participate in a classroom in which English is the only medium of instruction. Exit assessment methods may be similar to entry assessment methods. Several methods may be used to determine readiness, such as:

(i) tests administered at the end of each school year to determine the extent to which a student has developed oral and written language proficiency and specific language skills;

(ii) achievement test scores (at or above Agency or school established percentiles in reading and language arts); or

EXHIBIT 1-B (Cont'd)

INTENSE BILINGUAL PROGRAM

Sec 39.11 Definitions

Current

Proposed

(iii) other indications of students' overall progress as determined throughout the year, including but not limited to, criterion-referenced test scores, subjective teacher evaluations and parental evaluation.

EXHIBIT 1-C

INTENSIVE RESIDENTIAL GUIDANCE

Section 39.11 Definitions

Current

Proposed

To amend by modifying subsection (h) to read as follows:

(h) "Intensive Residential Guidance" means a weighted program to provide counseling services and therapeutic activities which are in addition to those available for all students enrolled in Bureau-funded schools.

Services are intervention measures directed toward the improvement of actions and behavior of students who are experiencing behavioral and/or adjustment problems. The effort must be in addition to the time the service/activity that is provided to all other students, and must not be in lieu of professional counseling services. Focus of the effort shall be specific to the Intensive Residential Guidance Program (IRGP) student's needs and behavioral objectives as specified by an Individual Treatment Plan (ITP). Services provided are to be documented and included in the student's file. Academic and dormitory staff as well as administrators shall be involved with the program developed for the IRGP student. Students who meet program requirements are to be admitted into IRGP on an on-going basis throughout the school year as the need may arise. Students may exit the program throughout the year as ITP's are met.

(A) No student, who is eligible for services under the Exceptional Child Program, shall be included in the "Intensive Residential Guidance Program". However, if the student is diagnosed as being Emotionally Disturbed in accordance to CFR-Part 45 the student shall be based in an appropriate residential program (IRG or ECR)

EXHIBIT 1-C (Cont'd)

INTENSIVE RESIDENTIAL GUIDANCE

Section 39.11 Definitions

Current

Proposed

determined by a placement team after reviewing the diagnostic work up. Placement shall be determined by the individual student needs and which program will best provide those needs.

(B) Program eligibility. The school shall maintain documentation of the presenting problem(s) and provide services to an enrolled residential student in the IRGP. A student is considered eligible if one or more to the following problem(s) is documented in the student's file:

(1) Court referral resulting from a pattern of infractions of the law. The fact that a student is enrolled at the school under a court referral can only be used as the IRGP placement criterion for the year the court referral was issued. The student may continue in IRGP under the eligibility which originally place him/her in the program until the objectives, established at the time of placement on the Individual Treatment Plan (ITP) have been accomplished in one school year, there must be a thorough review of that ITP to see if the activities were appropriate before the placement can continue into another year under the original eligibility.

(2) Expulsion from previous school. Expulsions may only be used as the IRGP placement criterion for the first year the student is enrolled at the school reporting the student for IRGP funding. The student may continue in the IRGP program under the expulsion action until the objectives (ITP) established at the time of placement have been met.

EXHIBIT 1-C (Cont'd)

INTENSIVE RESIDENTIAL GUIDANCE

Section 39.11 Definitions

Current

Proposed

However, if the objectives have not been accomplished in one school year, there must be a thorough review of that ITP to see if the activities were appropriate before the placement can continue into another year under the original eligibility.

(3) Referral by a licensed psychologist, psychiatrist, certified social work and/or certified counselor. A student referred by one of these professionals shall be reevaluated each year. If the level of emotional disturbance is sufficient to qualify a student for the Exceptional Child Program, the student should be counted under the Exceptionally Child Program. An emotionally disturbed child who is receiving Exceptional Child Program services shall not be counted for IRGP. However, if the objectives have not been accomplished in one school year, there must be a thorough review of that ITP to see if the activities were appropriate before the placement can continue into another year under the original eligibility.

(4) History of truancy of more than 30 days in the last school year. This placement criteria shall be based on the previous school year. Truancy can be a placement factor even if the history of truancy was at the school which reports the student for IRGP funding. The student may continue in the IRGP under the truancy criteria until the objectives (ITP) established at the time of placement have been met. However, if the objectives have not been accomplished in one school year, there must be thorough review of that ITP to see if the

EXHIBIT 1-C (Cont'd)

INTENSIVE RESIDENTIAL GUIDANCE

Section 39.11 Definitions

Current

Proposed

activities were appropriate before the placement can continue into another year under the original eligibility.

(5) A pattern of, or an incident of, extreme, unacceptable behavior. Placing a student in the program for a single incident must be for behavior so significant that immediate, intense intervention measures are essential for the well-being of the student. An attempted suicide is an example of such as single incident for which placement may be made. The IRGP shall not be a supportive service used as follow-up aftercare. Each school shall be an written definition of extreme, unacceptable behavior. The responsible Agency Superintendent for Education and/or Area Education Programs Administrator where applicable shall approve said definition.

In addition, if incident reports are used to show extreme, unacceptable behavior(s) or for IRGP purposes, acceptance of the reports as is documentation that positive efforts to resolve the problem were made without success.

The student may continue in the eligibility of extreme unacceptable behavior multi-behavioral objectives (ITP) established at the time of placement have been met.

(C) Documentation. Each IRGP student shall have in his/her file but not limited to the following:

(1) a copy of the court referral or documentation from school attendance clerk of probationary authority visits, or

EXHIBIT 1-C (Cont'd)

INTENSIVE RESIDENTIAL GUIDANCE

Section 39.11 Definitions

Current

Proposed

(2) evidence from school records of past discipline or attendance problems which resulted in student being dropped from school, or

(3) a written report by a licensed psychologist, psychiatrist, or a licensed social work, and/or certified guidance counselor which describes the nature of the problem. If the referral report serves as the diagnostic workup, it must be reviewed each year by a comparable professional; or

(4) attendance and behavior data from records of prior school, court records, or from social agency records and a written documentation summarizing such data.

(D) Diagnostic workup (a pre-placement decision requirement.) Once it has been determined that a student has met at least one of the five presenting problem conditions, other factors must be considered prior to determining whether IRGP placement is warranted. For example, the specifics of the student's problem(s), the identified underlying causes, current needs must be identified and considered, as must the services required and whether or not such services are available. The placement team must recognize the student's needs and determine if the services required to meet those needs are available in the basic academic and residential counseling program. Such factors are to be considered in the diagnostic workup.

EXHIBIT 1-C (Cont'd)

INTENSIVE RESIDENTIAL GUIDANCE

Section 39.11 Definitions

Current

Proposed

The workup will provide the basis for determining whether a student is to be placed in the IRGP. A diagnostic workup shall include:

(1) A summary of the presenting problem based upon existing problem documentation and related information.

(2) A family/social history and related information appropriate to the student's problems and needs.

(3) A summary of an interview with the student and staff as a means of assessing student's problems and needs.

(4) Identification and analysis of the student's specific problems and underlying causes or contributing factors (as possible). This information should be based on interviews with the student and staff members and the information listed in d(3) above.

(5) Recommendations for services, including behavioral goals and objectives for the student.

(E) Annual program plan. The school shall submit a written annual program plan outlining the overall goals and objectives of the IRGP. This plan should specify procedures and therapeutic activities to develop positive social skills in order to remediate the maladaptive behaviors of those students placed in the IRGP.

(F) Placement team. A placement team will be responsible for preparing the student's ITP, for monitoring services'

EXHIBIT 1-C (Cont'd)

INTENSIVE RESIDENTIAL GUIDANCE

Section 39.11 Definitions

Current

Proposed

covered by the ITP, and for determining the student's eligibility for exiting from the IRGP. The placement team shall consist of a minimum of three (3) educational personnel: the IRGP supervisor, a residence hall supervisor, and certified counselor. Additional members of this team may consist of any staff member of the school or residence hall or other professionals with an interest in services for the student.

(G) Individual Treatment Plan (ITP). This plan shall be made for each student who has been determined to be eligible for and who can benefit from services of the IRGP. The ITP is to include, but not be limited to:

(1) the objectives to be completed by the student;

(2) the services to be provided to the student, each IRGP student shall received four (4) hours of professional counseling or therapeutic activity (group or individual) per full school week, and at least one (1) hour shall be strictly one-on-one or small group therapy;

(3) a designation of the person(s) responsible for provided the services to the student;

(4) signatures of the members of the placement committee.

(H) The ITP should be reviewed after the student has been enrolled in the program for a reasonable time to assess whether any adjustments are necessary to his

EXHIBIT 1-C (Cont'd)

INTENSIVE RESIDENTIAL GUIDANCE

Section 39.11 Definitions

Current

Proposed

ITP. Any adjustments made shall be discussed with the student by a member of his committee.

(i) Documentation of services and an evaluation of the student's progress in completing his objectives shall be prepared at least once every two months during his participation in the program. Other items to be included in these evaluations may include school grades, attendance records, teacher evaluations, etc., that will indicate progress on the part of the student.

(J) A new ITP shall be developed for each school year even if the placement is a continuation. (If the student didn't meet the goals or objectives there should still be some changes in the treatment plan.) The ITP will be invalid after one calendar year.

(K) The ITP shall be evaluated by the placement committee at the end of each school year and appropriate decisions made as to the student's continued participation in the IRGP during the following school year. This summative evaluation shall indicate objectives that have/have not been completed during the school year, any changes in the student's behavior(s), and revisions to the ITP (as appropriate). The evaluation shall be reviewed with the student and signed by the student and the members of the placement committee.

EXHIBIT 1-C (Cont'd)

INTENSIVE RESIDENTIAL GUIDANCE

Section 39.11 Definitions

Current

Proposed

Students who have completed their ITP objectives should be exited at this time with complete justification and documentation being provided for the file to show completion of the objectives. This summative evaluation shall include an exit form showing the reasons for exiting, any comments by members of the placement committee, and signatures of the student and members of the placement committee.

Students who have dropped from school for any reason should be exited from the program along with recommendations for future involvement in the IRG Program.

EXHIBIT 1-D

GRADES 7 AND 8

Sec 39.11 Definitions

Current

Proposed

To amend by modifying subsection (e) to read as follows:

(e) "Grades 4-6", "grades 7-8" and grades 9-12" means a weighted program for a student . . . "

Sec 39.12 Entitlement for instructional purposes.

Current

Proposed

To amend by changing grade groupings in the basic programs to read as follows:

<u>Basic Programs</u>	<u>Base Weights</u>
Kindergarten	1.00
Grades 1 to 3	1.20
Grades 4 to 6	1.00
Grades 7 to 8	1.20
Grades 9 to 12	1.30

EXHIBIT 1-E

SMALL SCHOOL ADJUSTMENTS

Sec 39.14 Entitlement for small schools

Sec 39.11 Definitions

Current

Proposed

NONE

To amend by adding a subsection "d" to read as follows:

"(d) a school with an average daily attendance of of less than 50 eligible Indian students shall be considered as having an average daily attendance of 50 eligible Indian students for purposes of computing small school adjustments."

EXHIBIT 1-F

Sec 39.15 Alaskan school cost supplements

Current

Proposed

To delete all provisions of this section
and reserve the section, to read as
follows:

Sec 39.15 (Reserved)

EXHIBIT 1-G

Sec 39.19 Phase-in provisions

Current

Proposed

Delete all provisions of this section and
reserve the section, to read as follows:

Sec 39.19 (Reserved)

EXHIBIT 1-H

Sec 39.80 Contingency fund

<u>Current</u>	<u>Proposed</u>
NONE	<p>To add a new section the title and provisions of which will read as follows:</p> <p>Sec 39.80 <u>Emergency and unforeseen contingency fund</u></p> <p>The Secretary shall reserve from the ISEP funds available for distribution for each fiscal year under this section an amount which, in the aggregate, shall equal 1 percent of the funds available for such purpose for that fiscal year. Such funds shall be used, at the discretion of the Director, Office of Indian Education Programs, to meet emergencies and unforeseen contingencies affecting the education programs funded under this section.</p> <p>Funds reserved under this subsection may only be expended for education services or programs at a schoolsite as defined by the Tribally Controlled Schools Act of 1988.</p> <p>Funds shall remain available without fiscal year limitation until expended. However, the aggregate amount available from all fiscal years may not exceed 1 percent of the current year funds.</p> <p>Whenever funds are made available, the Secretary shall report such action to the appropriate committees of Congress within the annual budget submission.</p>

EXHIBIT 1-I

Sec 39.90 National school board training

Current

Proposed

To amend by deleting current language of this section and adding the following language:

The Secretary shall reserve for national school board training 0.2 percent of funds appropriated for each fiscal year for distribution.

Training shall be conducted through the same organization through which, and in the same manner in which, the training was conducted in fiscal year 1986.

If a contract for training is not awarded before May 1 of each fiscal year, the contract under which such training was provided for the preceding fiscal year shall be renewed by the Secretary for such fiscal year.

Training agendas shall be established by the school boards through their regional or national organizations.

For each year in which a weighted unit formula established to fund Bureau schools, a school which generates less than 168 weighted units shall receive an additional 2 weighted units to defray school board activities.

From funds allocated in accordance with the formula established for each school, the local school board may reserve an amount which does not exceed the greater of (i) \$5,000 or, (ii) the lesser of (I) \$15,000 or (II) 1 (one) percent of such allotted funds for school board activities for such school, including but not limited to, and notwithstanding any other provision of law, meeting expenses and the cost of membership in, and support of, organizations engaged in activities on behalf of Indian education.

code of federal regulations

Indians

143

25

Revised as of April 1, 1990

CONTAINING
A CODIFICATION OF DOCUMENTS
OF GENERAL APPLICABILITY
AND FUTURE EFFECT

AS OF APRIL 1, 1990

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147

PART 39—THE INDIAN SCHOOL EQUALIZATION PROGRAM

Subpart A—General

Sec.

- 39.1 Purpose and scope.
- 39.2 Definitions.
- 39.3 General provisions.

Subpart B—The Indian School Equalization Formula

- 39.10 Establishment of the formula.
- 39.11 Definitions.
- 39.12 Entitlement for instructional purposes.
- 39.13 Entitlement for residential purposes.
- 39.14 Entitlement for small schools.
- 39.15 Alaskan school cost supplements.
- 39.16 Computation of school entitlements.
- 39.17 Comparability with public schools.
- 39.18 Recomputations of current year entitlements.
- 39.19 Phase-in provisions.
- 39.20 Development of uniform, objective and auditable student weighted area placement criteria and guidelines.
- 39.21 Future considerations for weighted programs.
- 39.22 Authorization of new program development and termination of programs.
- 39.23 Review of contract schools supplemental funds.

Subpart C—Formula Funding Administrative Procedures

- 39.30 Definitions.
- 39.31 Conditions of eligibility for funding.
- 39.32 Annual computation of average daily membership.
- 39.33 Special education unduplicated count provision.
- 39.34 Substitution of a count week.
- 39.35 Computation of average daily membership (ADM) for tentative allotments.
- 39.36 Declining enrollment provision.
- 39.37 Auditing of student counts.
- 39.38 Failure to provide timely and accurate student counts.

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§ 39.1

Sec.

39.39 Delays in submission of ADM counts.

Subpart D—Direct Allotment of Formula Entitlements

- 39.50 Definitions.
- 39.51 Notice of allotments.
- 39.52 Initial allotments.
- 39.53 Obligation of funds.
- 39.54 Apportionment of entitlements to schools.
- 39.55 Responsible local fiscal agent.
- 39.56 Financial records.
- 39.57 Access to and retention of local educational financial records.
- 39.58 Expenditure limitations for Bureau operated schools.

Subpart E—Local Educational Financial Plan

- 39.60 Definitions.
- 39.61 Development of local educational financial plans.
- 39.62 Minimum requirements.
- 39.63 Procedures for development of the plan.
- 39.64 Procedures for financial plan appeals.

Subpart F—Contingency Funds

- 39.70 Definitions.
- 39.71 Establishment of the School Disaster Contingency Fund.
- 39.72 Continuing and cumulative provisions.
- 39.73 Purposes.
- 39.74 Application procedures.
- 39.75 Disbursement procedures.
- 39.76 Prohibitions of expenditures.
- 39.77 Transfer of funds from Facilities Engineering for other contingencies.
- 39.78 Establishment of a formula implementation set-aside fund.
- 39.79 Prohibition.

Subpart G—School Board Training

- 39.90 Establishment of a school board training fund.
- 39.91 Other technical assistance and training.
- 39.92 Training activities.
- 39.93 Allowable expenditures.
- 39.94 Limitations on expenditures.
- 39.95 Reporting of expenditures.
- 39.96 Provision for annual adjustment.
- 39.97 Training for agency school board.

Subpart H—Student Transportation

- 39.100 Definitions.
- 39.101 Purpose and scope.
- 39.102 Allocation of transportation funds.
- 39.103 Annual transportation formula adjustment.

Sec.

Subpart I—Interim Maintenance and Minor Repair Fund

- 39.110 Establishment and funding of an Interim Maintenance and Minor Repair Fund.
- 39.111 Conditions for distribution.
- 39.112 Allocation.
- 39.113 Use of funds.
- 39.114 Limitations.

Subpart J—Interim Administrative Cost Formula

- 39.120 Purpose and scope.
- 39.121 Definitions.
- 39.122 Accounting.
- 39.123 Determination of present cost levels.
- 39.124 Allotment of educational administrative funds.
- 39.125 Allotment exceptions.
- 39.126 Distribution of administrative funds within area.
- 39.127 Exceptional education services at area and agency offices.
- 39.128 Provision for administrative cost formula based on administrative functions.

Subpart K—Pre-kindergarten Programs

- 39.130 Interim fiscal year 1980 and fiscal year 1981 funding for pre-kindergarten programs previously funded by the Bureau.
- 39.131 Addition of pre-kindergarten as a weight factor to the Indian School Equalization Formula in fiscal year 1982.

Subpart L—Contract School Operation and Maintenance Fund

- 39.140 Definitions.
- 39.141 Establishment of an interim fiscal year 1980 operation and maintenance fund for contract schools.
- 39.142 Distribution of funds.
- 39.143 Future consideration of contract school operation and maintenance funding.

AUTHORITY: Sec. 1128 of Title XI of the Education Amendments of 1978. (92 Stat. 2320, 25 U.S.C. 2008).

SOURCE: 44 FR 61864, Oct. 26, 1979, unless otherwise noted. Redesignated at 47 FR 13327, Mar. 30, 1982.

Subpart A—General

§ 39.1 Purpose and scope.

The purpose of this rule is to provide for the uniform direct funding of

§ 39.2

BIA operated and tribally operated day schools, boarding schools, and dormitories. These rules apply to all schools and dormitories and administrative units which are funded through the Indian School Equalization Program of the Bureau of Indian Affairs.

§ 39.2 Definitions.

Assistance under this rule is subject to the following definitions and requirements relating to fiscal and administrative matters. Definitions of terms that are used throughout the part are included in this subpart. As used in this part, the term:

(a) "Agency" means an organizational unit of the Bureau which provides direct services to the governing body or bodies and members of one or more specified Indian Tribes. The term includes Bureau Area Offices only with respect to off-reservation boarding schools administered directly by such Offices.

(b) "Agency school board" means a body, the members of which are appointed by the school boards of the schools located within such agency, and the number of such members shall be determined by the Director in consultation with the affected tribes, except that, in Agencies serving a single school, the school board of such school shall fulfill these duties.

(c) "Agency Superintendent of Education" or "Superintendent" means the Bureau official in charge of Bureau education programs and functions in an Agency who reports to the Director.

(d) "Area Director for Education" means the Bureau official in charge of Bureau Education programs and functions in a Bureau Area Office and who reports to the Director.

(e) "Assistant Secretary" means the Assistant Secretary of Indian Affairs, Department of the Interior, or his or her designee.

(f) "Average daily membership" or "ADM" means the average of the actual membership in the school, for each student classification given separate weightings in the formula. Only those eligible students shall be counted as members who are:

25 CFR Ch. I (4-1-90 Edition)

(1) Listed on the current roll of the school counting them during the count week;

(2) Not listed as enrolled in any other school during the same period; and

(3) In actual attendance at the school counting them at least one full day during the count week in which they are counted.

(g) "Bureau" means the Bureau of Indian Affairs of the Department of the Interior.

(h) "Decision of record" means a formal written confirmation of a voted action by a school board during a formally constituted school board meeting.

(i) "Director" means the Director of the Office of Indian Education Programs for the Bureau of Indian Affairs, or his or her designee.

(j) "Eligible student" means an Indian student properly enrolled in a Bureau school or dormitory, or a tribally operated school or dormitory funded by the Bureau, who meets the applicable entry criteria for the program(s) in which he or she is enrolled.

(k) "Entitlement" means that amount of funds generated by the Indian School Equalization Formula for the operational support of each school.

(l) "Advice of allotment" means the formula written document advising a school or an administrative office of its entitlement under the formula. The advice of allotment conveys legal authority to obligate and expend funds in a given fiscal year.

(m) "Allotment" means the amount of the obligational authority conveyed to a given school or Bureau administrative office by its advice of allotment in a given fiscal year.

(n) "Indian" means a person who is a member of an Indian tribe.

(o) "Indian Tribe" means any Indian Tribe, Band, Nation, Rancheria, Pueblo, Colony or Community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) which is recognized as eligible for the special programs and services provided by the United States

to Indians because of their status as Indians.

(p) "Program" means each or any subset of the Indian School Equalization Program (ISEP), but not the ISEP itself, for which a separately computable dollar amount may be generated by a school. Each program classification is a cost account in an accounting system. The following accounting programs are those established by this part:

- (1) Instructional costs;
- (2) Boarding costs;
- (3) Dormitory costs;
- (4) Bilingual instruction costs;
- (5) Exceptional child education costs;
- (6) Intense residential guidance costs;
- (7) Student transportation fund costs;
- (8) School maintenance and repair fund costs;
- (9) School board training fund costs;
- (10) Pre-kindergarten costs; and
- (11) Previously private contract school operation and maintenance costs.

(q) "School" means an educational or residential center operated by or under contract with the Bureau of Indian Affairs offering services to Indian students under the authority of a local school board and the direction of a local school supervisor. A school may be located on more than one physical site. The term "school", unless otherwise specified, is meant to encompass day schools, boarding schools, previously private schools, co-operative schools, contract schools and dormitories as those terms are commonly used.

(r) "Local School Board," (usually referred to as "school board") including off-reservation boarding school boards and dormitory school boards, when used with respect to a Bureau school, means a body chosen to exercise the functions of a school board with respect to a particular Bureau operated or funded school, in accordance with the laws of the tribe to be served or, in the absence of such laws, elected for similar purpose by the parents of the Indian children attending the school, except that in schools serving a substantial number of students from

different tribes, the members shall be appointed by the governing bodies of the tribes affected; and the number of such members shall be determined by the Director in consultation with the affected tribes.

(s) "Supervisor" or "local school supervisor" means the individual in the position of ultimate authority at any Bureau administered or tribally operated contract school.

(t) "Tribally operated contract school" or "contract school" means a school (other than a public school) which is financially assisted under a contract with the Bureau.

(u) "Weighted student unit (WSU)" means the measure of student membership adjusted by the weights or ratios used as factors in the Indian School Equalization Formula established in § 39.10 below. The term weighted student unit also describes the measure by which supplements to the weighted student count at any school are augmented as the result of the application of small school supplements or Alaskan school supplements.

§ 39.3 General provisions.

(a) All funds appropriated by the Congress for the support and administration of Bureau operated or contracted elementary and secondary educational purposes and programs shall be allocated in accordance with, and be distributed through, the Indian School Equalization Program, unless a specific amount of funds are added or reduced for a particular class of schools through the budget and appropriations process.

(b) Each expenditure of funds authorized in Part 39 is without exception subject to the availability of funds.

Subpart B—The Indian School Equalization Formula

§ 39.10 Establishment of the formula.

There is hereby established the Indian School Equalization Formula (ISEF). Funds for the instruction and residential care of Indian children shall be earned as an entitlement by each local school according to a weighted student unit formula. The

funds allocated through the formula shall be computed as follows:

(a) The basic instructional average daily membership (ADM) shall be counted at each school location as provided for in Subpart C of this part. From the application of ratios or weights as provided in these rules a weighted student unit (WSU) value for each school location is derived by multiplying the student count for each program area by the weights.

(b) If the school is a boarding school or a dormitory, the residential students will produce program units which will, by the application of weights, produce additional WSU's.

(c) The ADM count of eligible small schools or dormitories may generate additional unit supplements.

(d) All Alaskan schools are eligible under the formula to generate supplemental units.

(e) The total weighted student unit count for each school location is then multiplied by a base unit value to derive the estimated dollar entitlement to each school(s).

The total amount is made available to each school(s), under the rules related to administrative provisions provided in Subparts C and D of this part.

§ 39.11 Definitions.

Assistance to approved school(s) under this subpart is subject to the definitions established in § 39.2 and to the following definitions for determining student counts in the various weighted areas. As used in the subpart, the term:

(a) "Base" or "base unit" means both the weight or ratio of 1.0 and the dollar value annually established for that weight or ratio which represents students in grades 4 through 8 in a typical instructional program.

(b) "Basic program" means the instructional program provided all students at any age level exclusive of any supplemental programs which are not provided to all students in day or boarding schools.

(c) "Grade" or "Grade Level", followed in most cases by "K" or a number, means a classroom grouping ordinarily determined by student age and successful completion of a criterion number of years of previous

schoolwork. The use of this term does not preclude ISEP funding of programs in which instruction is "non-graded" or "individualized", or which otherwise depart from grade-level school structure. For purposes of funding under the ISEP, students in such programs shall be counted as "in the grade level" to which they would ordinarily be assigned based on their chronological age and number of years of schooling completed.

(d) "Grades 1-3" means a weighted program for a student who is present during the count week (see § 39.30(b)) in grades 1 through 3 who is at least 6 years old by December 31 of the fall of the school year during which the count occurs and is a member of an educational program approved by the board which is conducted at least six gross hours daily during at least 180 days per school year. Gross hours means from the start of the school day to the end of the school day including all activities.

(e) "Grades 4-8" and "grades 9-12" means a weighted program for a student who is present during the count week (see § 39.30(b)) in either of the programs encompassing grades 4 through 12 who is a member of an educational program approved by the school(s) at least six gross hours daily during at least 180 days per school year and shall not have achieved the age of 21 nor have received a high school diploma or its equivalent.

(f) "Kindergarten" means a weighted program for a student who is present during the count week (see § 39.30(b)) who is at least 5 years old by December 31 of the fall of the school year during which the count occurs and a member of an educational program approved by the school(s) conducted at least four gross hours daily during at least 180 days per school year. Otherwise eligible students who are in a program conducted less than four hours daily, but at least two gross hours daily are eligible as "half-time kindergarten" students.

(g) "Intense Bilingual" means a weighted program for a student who is present during the count week, whose primary language is not English, and who is receiving academic instruction daily through oral and/or written

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forms of an Indian or Alaskan Native language, as well as specialized instruction in English for non native speakers of English, under resources of the ISEP.

(h) "Intensive residential guidance" means the weighted program for a resident student that needs special residential services due to one or more of the problems identified below, and that appropriate documentation is in that student's file as follows:

- (1) Presenting problem:
 - (i) Court of juvenile authority request for placement resulting from a pattern of infractions of the law.
 - (ii) Expulsion from previous school under due process.
 - (iii) Referral by a licensed psychologist, psychiatrist or certified psychiatric social worker as an emotionally disturbed student.
 - (iv) History of truancy more than 50 days in the last school year or a pattern of extreme disruptive behavior.
- (2) Documentation required:
 - (i) Written request signed by officer of court or juvenile authority;
 - (ii) Certification by expelling school;
 - (iii) Psychologist, certified psychiatric social worker, or psychiatrist report; or
 - (iv) Attendance and behavior data from records of prior school, court records, or from social agency records and a written documentation summarizing such data. For all students placed in intensive residential guidance programs, there shall be further documentation of a diagnostic workup, a placement decision by a minimum of three staff members, and a record of an individualized treatment plan for each student that specifies service objectives.

(v) No student shall be classified under "Intense residential guidance" who is eligible for services at a full-time or part-time service level because of a handicapping condition as defined under Exceptional Child programs in paragraph (i) of this section.

(i) "Exceptional Child Program" means weighted programs for students who are receiving special education and related services, consistent with the identification, evaluation and provisions of a free appropriate public education required by Part B of the

Education of the Handicapped Act (20 U.S.C. 1401 et seq.; 45 CFR 121a¹) and Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794; 45 CFR 84) and who have the following diagnosed impairments:

(1) "Deaf" means a hearing impairment which is so severe that the child is impaired in processing linguistic information through hearing, with or without amplification, which adversely affects educational performance.

(2) "Hard of hearing" means a hearing impairment, whether permanent or fluctuating, which adversely affects a child's educational performance but which is not included under the definition of "deaf" in this section.

(3) "Mentally retarded" means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period, which adversely affects a child's educational performance.

(4) "Severely Multi-handicapped" means concomitant impairments (such as mentally retarded-blind; mentally retarded-deaf) the combination of which causes such severe educational problems that they cannot be accommodated in regular educational programs or in special education programs solely for one of the impairments. The term includes deaf-blind children.

(5) "Orthopedically impaired" means a severe orthopedic impairment which adversely affects a child's educational performance. The term includes impairments caused by congenital anomaly (e.g., clubfoot, absence of some member, etc.), impairments caused by disease (e.g., poliomyelitis, bone tuberculosis, etc.), and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns which cause contractures).

(6) "Other health impaired" means limited strength, vitality or alertness, due to chronic or acute health problems such as a heart condition, tuberculosis, rheumatic fever, nephritis, asthma, hemophilia, epilepsy, lead poisoning, leukemia, or diabetes or the

¹ 45 CFR 121a was redesignated as 34 CFR 300 at 45 FR 77368, Nov. 21, 1980.

existence of a physical or mental impairment which substantially limits one or more major life activities, but which is not covered in paragraphs (1) through (12) of this section.

(7) "Emotionally disturbed" means a condition exhibiting one or more of the following characteristics over a long period of time and to a significant degree, which adversely affects educational performance and requires small group instruction, supervision, and group counseling:

(i) An inability to learn which cannot be explained by intellectual, sensory, or health factors;

(ii) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers;

(iii) Inappropriate types of behavior or feelings under normal circumstances;

(iv) A general pervasive mood of unhappiness or depression; or

(v) A tendency to develop physical symptoms or fears associated with personal or school problems.

(8) "Specific learning disability" means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which may manifest itself in an inability to listen, think, speak, read, write, spell, or to do mathematical calculations. The term includes such conditions as perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. The term does not include children who have learning problems which are primarily the result of vision, hearing, or motor handicaps, or mental retardation, or of environmental, cultural, or economic disadvantage.

(9) "Speech impaired" means a communication disorder, such as stuttering, impaired articulation, or a voice impairment, which adversely affects a child's educational performance.

(10) "Visually handicapped" means a visual impairment which, even with correction, adversely affects a child's educational performance. The term includes partially seeing, but not fully blind, children.

(11) "Severely emotionally disturbed" means a condition such as schizophrenia, autism or the presence

of the following characteristics over a prolonged period of time and to a marked degree, which seriously affects educational performance and requires intensive individual therapy (which may be conducted either in or out of the school setting), individual instruction, and supervision:

(i) An inability to learn which cannot be explained by intellectual, sensory, or health factors;

(ii) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers;

(iii) Inappropriate types of behavior or feelings under normal circumstances;

(iv) A general pervasive mood of unhappiness or depression; or

(v) A tendency to develop physical symptoms or fears associated with personal or school problems.

(12) "Severely and profoundly retarded" means a degree of mental retardation (as defined in paragraph (1)(3) of this section) which severely restricts and delays major aspects of intellectual functioning so as to require intensive small group instruction and supervision.

(13) "Students requiring home/hospital based instruction" means students provided a program of instruction in a home or hospital setting because in the judgement of a physician a student cannot receive instruction in a regular public school facility without endangering the health or safety of the student or of other students.

(14) "Multihandicapped" means concomitant impairments (such as mentally retarded with a minor additional handicap such as speech impaired) the combination of which causes educational problems that can not be accommodated in regular education programs or in part-time special education programs.

(15) "Blind" means the possession of a central vision acuity of 20/200 or less in the better eye with correcting glasses or a peripheral field of vision so contracted that its widest diameter is less than 20%.

(16) "Full-time—High Service Level" means a program of special education and related services provided to an exceptional student which consists of fifteen or more hours per week (or 60%

Bureau of Indian Affairs, Interior

§ 39.13

or more of the total instructional time) of instruction and/or required related services (as described in the students individualized education program), provided outside of the regular classroom. In geographically isolated, smaller schools where facilities are limited, a full time program may consist of fifteen or more hours per week (or 60% or more of the total instructional time) of specialized individual or small group instruction or required related services regardless of where the services are actually provided (including the regular classroom).

(17) "Part-time—Moderate Service Level" means any program of regular education modified to provide specialized instruction and/or required related services (as described in the student's individualized education program) which does not provide at least the number of hours in the definition of "Full-time—High Service Level Exceptional Child Program" set forth in paragraph (1)(14) of this section.

(18) Classification of a student in full or part-time service levels in residential care programs shall be based upon prior classification of the student in an instructional program serving his/her handicapping condition.

(j) "Resident" means a student officially enrolled in the residential care program of a Bureau operated or funded school and actually receiving supplemental services provided to all students who are provided room and board in a boarding school or a dormitory during those weeks when student membership counts are conducted. Such students must be members of the instructional program in the same boarding school in which they are counted as residents. To be counted as dormitory residents, students must be enrolled in and be current members of a public school in the community in which they reside.

§ 39.12 Entitlement for instructional purposes.

BIA educational funds for the instruction of elementary and secondary Indian children shall be computed according to the following weighted student unit factors:

Basic programs	Base weights
Kindergarten.....	1.00
Grades 1 to 3.....	1.20
Grades 4 to 8.....	1.00
Grades 9 to 12.....	1.30

Supplemental program	Add-on weight
Intense bilingual.....	.20
EXCEPTIONAL CHILD PROGRAMS	
Full time—high service level:	
Deaf.....	3.00
Blind.....	3.00
Severely multihandicapped.....	3.00
Severely and profoundly retarded.....	3.00
Students requiring hospital/home-bound instruction.....	3.00
Severely emotionally disturbed.....	3.00
Severely emotionally disturbed (non-severe).....	1.00
Specific learning disabled.....	1.00
Mentally retarded.....	1.00
Part time—moderate service level:	
Emotionally disturbed.....	.50
Specific learning disabled.....	.50
Mentally retarded.....	.50
Multihandicapped.....	.50
Hard of hearing.....	.25
Visually handicapped.....	.25
Orthopedically impaired.....	.25
Other health impaired.....	.25
Speech impaired.....	.25

§ 39.13 Entitlement for residential purposes.

Basic funds for student residential purposes shall be computed according to the following weighted student unit factors:

Base programs	Add-on weight
Kindergarten (For FY 80 only, 0 factor thereafter).....	1.40
Grades 1 to 3.....	1.40
Grades 4 to 8.....	1.25
Grades 9 to 12.....	1.25
EXCEPTIONAL CHILD PROGRAMS	
All full-time handicapped students.....	50
Part time:	
Orthopedically impaired.....	25
Other health impaired.....	25
Emotionally disturbed.....	25
Mentally retarded.....	25
Multihandicapped.....	25

§ 39.14

Base programs	Add-on weight
Intense Residential Guidance	.50

§ 39.14 Entitlement for small schools.

To compensate for the additional costs of operating small schools, qualified schools shall receive the following adjustments:

(a) *Instructional programs in day and boarding schools.* For each separate small school having an instructional average daily membership count (called x) of less than 100 students, the formula $[(100-x) \text{ divided by } 200]$ times x shall be used to generate add-on weighted pupil units for each such school.

(b) *Boarding school residential programs.* For each separate small boarding school having a resident average daily membership count (called y) of less than 100 students, the formula $[(100-y) \text{ divided by } 200]$ times y shall be used to generate add-on weighted pupil units for each such boarding school.

(c) *Dormitory residential programs serving public schools.* For each small dormitory program having an average daily membership count (called z) of less than 100 students, the formula $[(100-z) \text{ divided by } 200]$ times z shall be used to generate add-on weighted pupil units for each dormitory.

§ 39.15 Alaskan school cost supplements.

To meet the statutory requirements for a salary supplement for Alaskan educational staff, and add-on weight of .25 will be used as a factor by which all pupil program-generated weighted students shall be supplemented. Such generated Alaskan cost supplements will be added to the weighted pupil units generated by each school in the same manner as small school units.

§ 39.16 Computation of school entitlements.

The sum of all weighted student units, including any small school and any Alaskan school cost supplements shall be computed for each school under the management of the Director. The total number of units gener-

25 CFR Ch. I (4-1-90 Edition)

ated by each approved school shall be multiplied by a base dollar value which is equivalent to a base weight of 1.0 in the formula. This base value shall be computed annually by the Director by dividing the total of all weighted students (WSU) generated by all approved schools into the total amount appropriated for distribution through the Indian School Equalization Formula.

§ 39.17 Comparability with public schools.

(a) In no case shall a Bureau or contract school attended by an Indian student receive less under these regulations than the average payment from the Federal funds received per Indian student, under other provisions of law, by the public school district in which the student resides. Any school which is funded at a lower level per student under the ISEP than either the average daily expenditure per student for instructional costs in the public schools in the State in which it is located, or the amount per Indian student which the local public school district in which it is located receives from all Federal funding sources, shall present documentation of this fact to the Director of the Office of Indian Education Programs.

(b) Upon verification that comparisons in the documentation received cover comparative expenditures, and that the inequity indeed exists, the Director shall adjust the school's allocation to equal the payment per-Indian student of the public school district or State involved.

(c) Funds for such adjustment shall be taken from the Formula Implementation Set Aside established under § 39.78 of these regulations.

§ 39.18 Recomputations of current year entitlements.

The Director shall continuously monitor the processes by which the final allocation of each school's entitlement is made. When changes occur either in the total amount of funds available for the operations of schools or in the total number of weighted student units for all schools due to a change in the number of weighted student units reported or altered by au-

ditioning, the Director shall consider whether adjustments are necessary in order that the full available appropriations are fairly allocated to the schools, and that all funds are fully allotted to schools.

§ 39.19 Phase-in provisions.

(a) *Limits on excess gains.* No school shall receive a percentage increase in its total fund entitlement, over the comparable budget amount per school in the FY 79 Bureau Education budget, which is greater than the following percentage ratios:

- (1) In FY 80—20%
- (2) In FY 81—70%

(b) *Limits on excess losses.* No school shall receive a percentage decrease in its total fund entitlement, below the comparable budget amount in the FY 79 Bureau Education budget, which is greater than the following percentage ratios:

- (1) In FY 80—10%
- (2) In FY 81—30%

(c) *Effects of limits on losses and gains.* Local school gains in excess of the above percentage limits for each of the limited years shall be returned to the common base for all schools and distributed through the formula. Funds to limit losses in excess of the above limits shall be withdrawn from the common base for all schools and distributed to the schools subject to such excess losses.

(d) *Transfer of fiscal accountability.* To allow time for developing fiscal accountability, knowledge, skill and responsibility at the local school level and in order to support accountability by responsible Fiscal Agents under section 3679 of the Revised Statutes (the Anti-Deficiency Act), a period of one year (FY 1980) shall be used during which the legal allottee for each Bureau-operated school shall be the Education Superintendent of the Agency within which the school is located. In the case of off-reservation boarding schools and other Bureau-operated schools not served by an Agency Education Office, the Area Education Director shall be the legal allottee. Further allocation of funds under this rule shall be fully in accordance with the Indian School Equalization Program and Formula,

and expenditures shall be made in accordance with the financial planning provisions of section E of this rule.

(e) Beginning in FY 1981, the allottee shall be as otherwise determined in this rule.

§ 39.20 Development of uniform, objective and auditable student weighted area placement criteria and guidelines.

The Director shall develop: (a) Uniform, objective and auditable placement criteria and guidelines for placement of students in dormitories and residential care programs of boarding schools and in special weighted program areas which expand upon the definitions in this part; and (b) a uniform and auditable system of enrollment criteria and attendance boundaries for each school in the Bureau educational program. The Director shall publish these criteria and guidelines in the Bureau Manual (BIAM) and widely disseminate them to each school prior to September 1, 1980, so that appropriate student placements can occur before the FY 1981 October student count.

§ 39.21 Future considerations for weighted programs.

(a) Within twelve months of the final publication of this rule, the Director shall review the following factors in depth, and determine whether to incorporate each into the weighted pupil formula:

- (1) A rural isolation adjustment.
- (2) A staff cost adjustment.
- (3) A gifted and talented student program.
- (4) A vocational education program.
- (5) A facilities operation and maintenance program.
- (6) Additional institutional size factors.

(b) The Director may also recommend incorporation of other factors, based upon the Bureau's experience in the first year's operation of the ISEP, and upon the Standards to be developed under section 1121 of the Act.

(c) The Director shall also review the adequacy of the weighted factors, procedures, criteria and definitions now in this rule, throughout Part 39. On the basis of this review, the Direc-

§ 39.22

tor shall present a comprehensive report of findings, with recommendations for amendment of this rule, to the Secretary, who shall incorporate them in a Notice of Proposed Rulemaking to include a minimum of sixty (60) days for public comment.

§ 39.22 Authorization of new program development, and termination of programs.

(a) Within one year of the final publication of this rule, the Secretary shall develop uniform procedures and criteria for the authorization of new schools where no Bureau funded or operated school program has previously existed, and for authorization of expansions of existing Bureau funded or operated school programs to serve additional age groups not previously served. These procedures and criteria shall be published as amendments to this rule under a new Notice of Proposed Rulemaking, which shall contain provisions for a minimum of sixty (60) days of public review and comment prior to final publication.

(b) Procedures and criteria developed under this section shall be integrated with existing procedures under 25 CFR 271 for determining contractable functions of the Bureau, in order to produce a coherent system for authorization of Tribally initiated program development under contracting procedures of Pub. L. 93-638, which is compatible with Bureau initiated program development.

(c) Procedures and criteria developed under this rule shall also contain provisions for making decisions regarding closing schools and terminating Bureau programs of education. These shall provide for full consultation with the Indian persons and Tribes served by the programs and schools involved in any such decisions.

§ 39.23 Review of contract schools supplemental funds.

Before the end of formula phase-in, the Director shall consider the impact on equalization of supplemental funds appropriated for aid to schools under the Johnson O'Malley Act and under Title IV of the Indian Education Act, which are available to contract schools but not to Bureau schools, and deter-

25 CFR Ch. I (4-1-90 Edition)

mine appropriate adjustments, if any. Any adjustments in the ISEP which results from this review shall be effected by formal revision of this rule, under a Notice of Intended Rulemaking published in the FEDERAL REGISTER, and shall be subject to public comment for a minimum of sixty (60) days prior to final rulemaking.

Subpart C—Formula Funding Administrative Procedures

§ 39.30 Definitions.

As used in this subpart, the term:

(a) "Certifying the validity of student counts" means that counts of student ADM have been accurately recorded in compliance with specifications of these rules, and that the Agency Superintendent of Schools, the local school supervisor, and local school board chairperson, where a school board exists, testify to and confirm the correctness of this count.

(b) "Count week" means the last full week in September for the purposes of calculating allotments.

(c) "Student classification" means any special student need area that receives a separate weighting through the Indian School Equalization Formula.

[44 FR 61864, Oct. 26, 1979. Redesignated at 47 FR 13327, Mar. 30, 1982 and amended at 49 FR 36368, Sept. 17, 1984]

§ 39.31 Conditions of eligibility for funding.

(a) To be eligible for direct formula funding as established in Subpart B of this part, a day school, boarding school, or dormitory must meet minimum standards, or, failing to do so, must include in its financial plan steps acceptable to the Director for taking corrective action to meet the standards to be prescribed pursuant to section 1121 of the Education Amendments of 1978 (Pub. L. 95-561; 25 U.S.C. 2001). Until such standards are prescribed, the Director shall determine eligibility for funding in accordance with established procedures for authorizing Bureau operated schools.

(b) To be eligible for direct formula funding, a tribally operated day or boarding school or dormitory must

meet the requirements of Part 271 of this chapter (25 CFR 271) for receipt of Bureau Education funds under contracts for school operation.

§ 39.32 Annual computation of average daily membership.

(a) Average daily membership (ADM) as defined in § 39.2(f) shall be determined during the last full school week in September during which all students eligible under the definition shall be counted by student program classification.

(b) The Director shall direct the receipt and management of information necessary to obtain timely ADM reports from schools. Agency education offices and, in the case of off-reservation boarding schools, Area education offices together with each school's supervisor and school board chairperson where a board exists shall be responsible for certifying the validity of each school's student counts. The September ADM will be used to determine final allotments for the school year.

[49 FR 36368, Sept. 17, 1984]

§ 39.33 Special education unduplicated count provision.

In counting special education ADM with the exception of speech therapy, no child shall be counted or funded twice for participation in more than one special education program.

§ 39.34 Substitution of a count week.

A school may petition the Director to substitute another week in the same month for the specified count week if it can be established that to use the specified count week would result in grossly inaccurate student counts. Where tribal ceremonial days are known in advance, such a petition shall be submitted in advance of the determined count week.

§ 39.35 Computation of average daily membership (ADM) for tentative allotments.

Tentative allotments for each future year's funding shall be based on the ADM for the September count week of the current year.

[49 FR 36368, Sept. 17, 1984]

§ 39.36 Declining enrollment provision.

If the decline of a school's average daily membership exceeds ten percent in any given school year, the school may elect to request funding based on the average of the current and previous years' September ADM count.

[49 FR 36368, Sept. 17, 1984]

§ 39.37 Auditing of student counts.

The Secretary shall provide for auditors as required to assure timeliness and validity in reporting student counts for formula funding.

§ 39.38 Failure to provide timely and accurate student counts.

(a) Responsible Bureau school, Agency, Area, and Central Office administrators may be dismissed for cause, or otherwise penalized, for submission of invalid or fraudulent annual student ADM counts or willfully inaccurate counts of student participation in weighed program areas. A person who knowingly submits or causes to be submitted to a Federal official or employee false information upon which the expenditure of Federal funds is based, may be subject to criminal prosecution under provisions such as sections 286, 287, 371, or 1001 of Title 18, U.S. Code.

(b) Failure of responsible Federal officials to perform administrative operations which are essential to the ISEP, on a timely basis, shall result in swift disciplinary action by Bureau supervisory personnel, under existing procedures. Failure or refusal of Bureau supervisory personnel to take disciplinary action shall result in disciplinary action against them by higher level supervisors.

§ 39.39 Delays in submission of ADM counts.

(a) If a Bureau operated or funded school delays submission of an ADM count, by more than (2) weeks beyond the final count week in November, for that school, the Director shall set aside an amount equal to the tentative allotment for that school out of the funds available for allotment, and shall proceed to compute the initial allotments for all other schools in the

Bureau school system, based upon remaining funds available for allotment. The allotment for the school which has failed to submit a timely ADM count shall be computed when the ADM count is received, but shall not exceed the amount set aside therefore. Any amount remaining in the set-aside fund, after computation of the allotment, shall be transferred into the Formula Implementation Set-Aside Fund, and distributed in accordance with provisions of § 39.78 in Subpart F.

(b) In no case shall the Director delay the computation of initial allotments for schools which have submitted timely ADM counts while waiting for those schools which have failed to submit.

Subpart D—Direct Allotment of Formula Entitlements

§ 39.50 Definitions.

As used in this subpart, the term:

(a) "Apportionment" means that part of a school's allotment received each quarter as an authorization to obligate funds.

(b) "Approved apportionment schedules" means that approval given for the quarterly obligation of funds for a given appropriation of funds for the Bureau.

(c) "Authorization to obligate" means that approval given to a school to incur obligations of funds against a given appropriation.

(d) "Final allotment" means that notice of funds available to schools, based on the September student count as computed through the Indian School Equalization Formula (ISEF) based on full distribution of Indian School Equalization Program (ISEP) funds available for the fiscal year.

(e) "Initial allotment" means that notice of funds available to schools based on the September student count as computed through the Indian School Equalization Formula prior to any adjustments due to fluctuating student counts.

(f) "Responsible fiscal agent" means the local school supervisor of a Bureau operated school except where such authority is designated to the Agency Superintendent of Education by a

school board decision of record or by a written agreement signed by both parties. For contract schools, the responsible fiscal agent shall be designated in an action of record by the contractor.

(g) "Tentative allotment" means that notice of funds available to schools based on the September student count as computed through the Indian School Equalization Formula based on a proposed appropriation in the President's budget for the next fiscal year.

(44 FR 61864, Oct. 26, 1979. Redesignated at 47 FR 13327, Mar. 30, 1982 and amended at 49 FR 36368, Sept. 17, 1984)

§ 39.51 Notice of allotments.

The Director shall notify school administrators and boards of allotments of funds based on the September ADM count established under Subpart B of this part according to the following schedule:

(a) Tentative allotments shall be made by March 15 of the prior fiscal year.

(b) Initial allotments shall be made not later than November 15 of the fiscal year; and

(c) Final allotments shall be made not later than January 15 of the fiscal year.

(49 FR 36368, Sept. 17, 1984)

§ 39.52 Initial allotments.

The Assistant Secretary—Indian Affairs, as requested by the Director, shall make initial allotments to Bureau operated schools, Agency Education Offices, and Central and Area Offices. The Assistant Secretary—Indian Affairs shall make initial allotments for tribally operated schools to appropriate Agency Superintendents of Education, or as otherwise provided by the Director.

§ 39.53 Obligation of funds.

(a) Authority to obligate funds in the Bureau operated schools shall be governed by provisions of the Bureau Manual (42 BIAM).

(b) Authority to obligate funds in tribally operated contract schools shall be governed by contracting procedures of 25 CFR 271.

(c) Authority to obligate funds in all Bureau funded and operated schools shall be based upon the tentative allotment (§ 39.51) for the period beginning October 1 of any fiscal year. The tentative allotment as restricted by a continuing resolution, if applicable, would govern until computation and notification of initial allotments as described in this sub-part, as adjusted by the Director in accordance with §§ 39.75, 39.78, 39.90, 39.102 and 39.111.

§ 39.54 Apportionment of entitlements to schools.

(a) *Bureau operated schools.* The Director shall make quarterly apportionments directly to the local school supervisor or to the school's responsible fiscal agent as specifically delegated in accordance with § 39.55 of this part. Such quarterly apportionments will be made as determined in § 39.53 of this part.

(b) *Contract schools.* The Agency Superintendent of Education, or another agent as designated by the Director, shall be responsible through the contracting officer in accordance with 25 CFR 271 for effecting and adjusting contracts with tribally operated schools.

§ 39.55 Responsible local fiscal agent.

The responsible fiscal agent shall:

(a) Expend funds solely in accordance with the local educational financial plan, as ratified or amended by the local school board, unless in the case of Bureau operated schools, this plan has been overturned under the appeal process prescribed in these rules, in which case expenditures shall be made in accordance with the local educational financial plan as determined by the Agency Superintendent of Education.

(b) Sign all documents required for the obligation and or payment of funds and documentation of receipt of goods and services.

(c) Report at least quarterly to the local school board on the amounts expended, amounts obligated and amounts currently remaining in funds budgeted for each program of services in the local financial plan.

(d) Recommend changes in budget amounts, as required for effective

management of resources to carry out the local financial plan, and incorporate such changes in the budget as are ratified by the local school board, subject to provisions for appeal and overturn.

§ 39.56 Financial records.

Each responsible fiscal agent receiving funds under the ISEP shall maintain expenditure records in accordance with financial planning system procedures as required herein.

§ 39.57 Access to and retention of local educational financial records.

The Comptroller General, the Assistant Secretary, the Director, or any of their duly authorized representatives shall have access for audit and examination purposes to any of the local schools' accounts, documents, papers and records which are related or pertinent to the school's operation. The provisions of 25 CFR 271.47 will be applicable in the case of tribally contracted schools.

§ 39.58 Expenditure limitations for Bureau operated schools.

(a) Expenditure of allotments shall be made in accordance with applicable federal regulations and local education financial plans, as defined in § 39.60(b) of Subpart E.

(b) Where there is disagreement between the Area or Agency support service staff and the responsible fiscal agent regarding the propriety of the obligation or disbursement of funds, appeal shall be made to the Director.

Subpart E—Local Educational Financial Plan

§ 39.60 Definitions.

As used in this subpart, the term:

(a) "Consultation" means soliciting and recording the opinions of school boards regarding each element in the local financial plan, as set forth below, and incorporating those opinions to the greatest degree feasible in the development of the local educational financial plan at each stage thereof.

(b) "Local educational financial plan" means that plan which programs dollars for educational services

for a particular Bureau operated or funded school which has been ratified in an action of record by the local school board, or determined by the superintendent under the appeal process set forth in this subpart.

(c) "Budget" means that element in the local educational financial plan which shows all costs of the plan by discrete programs and sub-cost categories thereunder.

§ 39.61 Development of local educational financial plans.

A local educational financial plan shall be developed by the local school supervisor, in active consultation with the local school board, based on the tentative allotment received as provided in § 39.51.

§ 39.62 Minimum requirements.

The local financial plan shall include, at a minimum, each of the following elements:

(a) Separate programming of funds for each group of Indian students for whom a discrete program of services is to be provided. This must include at a minimum each program for which funds are allotted to the school through the Indian School Equalization Program;

(b) A brief description, or outline, of the program of student services to be provided for each group identified;

(c) A budget showing the costs projected for each program, as determined by the Director through the development of a uniform cost accounting system related to the Indian School Equalization Program;

(d) A statement of the percentage relationship between the total of the anticipated costs for each program and the amount the students served by that program will generate under the Indian School Equalization Formula. Beginning in FY 1981, there shall also be included a statement of the cost incurred for each program in the preceding fiscal year and the amount received for each such program as the result of the Indian School Equalization Formula. For exceptional child programs the plan must provide that at least 80% of the funds generated by students served by

the program be spent on those students;

(e) A provision for certification by the chairman of the school board that the plan as shown, or as amended, has been ratified in an action of record by the school board; or

(f) Except in the case of contract schools, a provision for certification by the Agency Superintendent of Education that he or she has approved the plan as shown, or as amended, in an action overturning the rejection or amendment of the plan by the school board.

§ 39.63 Procedures for development of the plan.

(a)(1) Within thirty (30) days after receipt of the tentative allotment for the coming school year, the school supervisor shall meet and consult with the local school board on the local financial plan.

(2) The school supervisor shall discuss at this meeting the present program of the school and any proposed changes he or she wishes to recommend. The school board members shall be given every opportunity to express their own ideas as well as their views on the supervisor's recommendations. Subsequently the school supervisor shall present a draft plan to the school board with recommendations concerning each of the elements outlined in this subpart.

(b) Within sixty (60) days of receipt of the tentative allotment, the school board shall review the local financial plan as prepared by the school supervisor and, by a quorum vote, shall have the authority to ratify, reject or amend such financial plan.

(c) The school board shall have the authority, at any time following the ratification of the financial plan on its own determination or in response to the supervisor, to revise such plan to meet needs not foreseen at the time of preparation of the plan.

(d) If the supervisor does not wish to file an appeal, he or she shall transmit a copy of the approved local financial plan within two weeks of the school board action, along with the official documentation of the school board action, to the office of the Agency Su-

perintendent of Education. Later revisions to the financial plan must be transmitted in the same manner.

(e) In the event that the school board does not act within the prescribed deadline, the financial plan shall be referred to the Agency Superintendent of Education for ratification, subject to subsequent amendment by the school board in accordance with paragraph (c) of this section.

(f) The Agency Superintendent of Education will review the local financial plan for compliance with prescribed laws and regulations or may refer the plan to the Solicitor's Office for legal review. If the Superintendent notes any problem with the plan, he or she shall notify the local board and local supervisor of the problem within two weeks of receipt of the local financial plan and shall make arrangements to assist the local school supervisor and board to correct the problem. If the Superintendent is not able to correct the problem, it shall be referred to the Director of the Office of Indian Education.

§ 39.64 Procedures for financial plan appeals.

(a) If the supervisor of a school finds an action of the local school board, in rejecting or amending the local financial plan, to be unacceptable in his or her judgment as a professional educator, the supervisor may appeal to the Agency Superintendent of Education under the following procedures and conditions:

(1) The appeal must be presented in writing, within ten (10) consecutive days of the supervisor's receipt of the school board decision which is appealed.

(2) The written appeal shall contain, at a minimum, the following information and documentation:

(i) All descriptive information concerning the element(s) in the local financial plan being appealed, substantially as presented to the school board prior to its decision.

(ii) Official documentation of the school board's decision amending or rejecting the element(s) being appealed.

(iii) A statement of the school supervisor's reasons for appealing the board's actions.

(iv) Signed certification by the supervisor that his/her reason for appeal has been presented to the chairperson of the school board, and that the school board has been offered full opportunity to submit a counter statement to the Superintendent.

(3) If the supervisor of the school is also the Superintendent, the appeal shall be made following the above procedures to the Director, who shall follow procedures set forth below, as acting Superintendent for the appeal.

(b) Within ten (10) consecutive days of receiving the appeal, the Agency Superintendent of Education shall review the appeal documents to determine if they are complete according to the criteria established in this subpart, and if so shall notify both the school supervisor and the school board of a date for an informal conference.

(c) Within twenty-five (25) consecutive days of receiving the referral for approval, the Superintendent shall:

(1) Hear any arguments on either or both sides of the appeal issue(s) at the option of either the supervisor of the school board involved.

(2) Following the informal conference, either sustain or reject the appeal for good cause, which the Superintendent shall set out in writing to both the supervisor and school board.

(d) Nothing in this subsection shall be construed as enabling the supervisor of a tribally operated school to appeal decisions of a contract school board to the Agency Superintendent for Education, nor as empowering the Agency Superintendent for Education to overturn any action of a contract school board under this appeal process as established in Pub. L. 93-638.

(e) Within 180 days after the effective date of this subpart, the Assistant Secretary shall develop and publish in the FEDERAL REGISTER procedures for a formal hearing process which shall be available to school boards who believe their decisions regarding the financial plan have been overturned for other than good cause.

Subpart F—Contingency Funds

§ 39.70 Definitions.

As used in this subpart, the term:

(a) "Cumulative total" means the sum of all funds carried over from the previous fiscal year(s) as unobligated and the amount for the current year.

(b) "Temporary replacement" means the substitution of a structure on a temporary basis in lieu of the original permanent structure that has been lost to use. The temporary use will expire at the time that arrangements are completed for the availability of a structure similar to the original.

§ 39.71 Establishment of the School Disaster Contingency Fund.

The Bureau's annual budget justifications shall identify an amount for a separate budget account entitled the School Disaster Contingency Fund (SDCF). All schools and dormitories receiving support under the provisions of Subparts B and C of this part are eligible for disaster aid from this contingency fund.

§ 39.72 Continuing and cumulative provisions.

Unobligated funds from the School Disaster Contingency Fund shall be continued over at the end of a fiscal year in the same account for the next year, except when otherwise provided in appropriations acts. New funds shall be added when appropriated but the Fund should not exceed a \$1.5 million cumulative total unless otherwise determined by the Assistant Secretary.

§ 39.73 Purposes.

Disbursements from the School Disaster Contingency Fund shall be for the following purposes:

(a) Costs of replacement of items in the following categories including shipment and installation, in the event of their destruction by earthquake, fire, flood, storm, or other "acts of God," and acts of massive and catastrophic vandalism where such costs are not already covered in an insurance policy in force at the time of destruction and where such destruction could not have been prevented by pru-

dent action by the officials responsible for the care of such items:

(1) Educational materials and supplies.

(2) Equipment and furnishings.

(3) Dormitory materials and supplies, for student use, and dormitory equipment and furnishings, including those necessary for staff living space, if integral to the dormitory operation.

(4) Food services supplies, furnishings and equipment not a fixed part of structures.

(5) Office supplies and equipment for minimum essential administrative operations.

(6) Janitorial supplies and cleaning equipment.

(7) Student clothing and personal supplies if destroyed along with a school facility.

(8) Fuel supplies, tanks, lines, connections, meters, etc.

(9) Transportation equipment not otherwise provided for through the General Services Administration.

(10) Costs of repair of utility systems or components thereof, as necessary to restore utility services.

(b) Costs of temporary replacement of school facilities in the event of their destruction by earthquake, fire, flood, storm or other "acts of God," until they can be reconstructed. These costs may include purchase of or movement of portable structures, including costs of delivery, installation, and connection to utility systems. They may also include costs of any fixed equipment which is integral to such structures. Structure types for which such temporary replacement costs may be paid or reimbursed are as follows:

(1) Employee quarters, if required for employee housing due to the isolation of the duty station, and on other housing is available within a reasonable commuting distance. Reasonable commuting distance will be determined under existing policies or by the Director.

(2) Dormitories, including employee apartment space if integral to the operation of the dormitory.

(3) Offices required for minimum essential administrative operations at the local school level.

(4) Academic facilities, including classrooms, kindergartens, libraries

and special instructional spaces such as vocational shops and home economics rooms.

(5) Kitchens and dining facilities, including laundry and multipurpose spaces.

(6) Infirmarys, clinics and health service spaces, in school locations in which such services are not otherwise available.

(7) Separate restroom facilities, if none are otherwise available for operation of instructional and dormitory programs.

§ 39.74 Application procedures.

Application for disbursement from the School Disaster Contingency Fund shall be made to the Director of the Office of Indian Education Programs, through the Agency Superintendent of Education for the school affected. Applications shall be subject to review and comment by the Superintendent, and the Area Director for Education of the Area in which the school is located, but shall not require the approval of these officers. Such review and comment activities shall be carried out concurrently with the Director's processing of the application so that there are no delays in the transmission of the application to the Director. The Director shall develop such application forms and requests for information and documentation as are necessary to prove both loss and the fact that replacement costs are outside the normal budgetary capacity of the school operation at either the local school, Agency or Area levels.

§ 39.75 Disbursement procedures.

Disbursements from the SDCF shall be made only on the direct authorization of the Director, on the merits of each such application received, on a first come, first served basis and in amounts determined at the Director's discretion in accordance with the purposes and expenditure prohibitions set forth in this section.

§ 39.76 Prohibitions of expenditures.

(a) The following costs shall not be reimbursed or paid under the SDCF:

(1) Capital expenditures for construction of permanent facilities.

(2) Capital expenditures for reconstruction or refurbishment of facilities no longer in use except where such expenditure is the most cost effective way of temporarily replacing other destroyed facilities.

(3) Temporary replacement of facilities or replacement of equipment which has simply become outmoded and obsolete, or which has been "condemned" or declared unserviceable by administrative procedures, which is either still in existence or has been razed or destroyed as the result of an administrative decision.

(4) Costs of continued normal program operations which are not increased by a disaster.

(5) Personnel costs, except for temporary personnel hired to meet an emergency situation.

(6) Start-up costs for new or expanding school programs.

(7) Costs of repairs necessitated by neglect, or failure to provide routine scheduled maintenance and minor repair.

(8) Replacement costs of personal property of school employees, regardless of value or circumstances of destruction.

(9) General budgetary shortfalls due to improper fiscal management.

(10) Budgetary shortfalls from a past fiscal period, after funds have been carried forward in the SDCF to a new fiscal period.

(11) Costs of replacement of items stolen or destroyed by deliberate vandalism, neglect, or abandonment.

(12) Costs of items, services or activities for which budgetary provisions are made in other budget categories of the Bureau not subject to distribution under the Indian School Equalization Program.

(b) Temporary replacement costs for the following structure types shall not be paid or reimbursed from the SDCF:

(1) Recreational structures, such as auditoriums, field houses, clubs, canteens, chapels, student centers, grandstands, gymnasiums, etc.

(2) Auxiliary buildings not used in student instructional or dormitory programs, such as warehouses, storage sheds, garages, firehouses, maintenance shops, law enforcement centers.

instructional materials and audio-visual centers, and employees' clubs.

(3) Temporary replacement costs shall be paid or reimbursed only to the extent necessary to permit expeditious continued operation of the school dormitory care programs affected by the destruction of facilities.

§ 39.77 Transfer of funds from Facilities Engineering for other contingencies.

In order to reimburse schools for the costs of unforeseen and extraordinary procurement costs and for major repairs of reconstruction resulting from the disaster, the Director may request a transfer of funds from funds appropriated for Bureau Facilities Engineering to the School Disaster Contingency Fund for such purposes. When a separate formula is established by regulation for school maintenance and operations, an appropriate separate contingency fund shall be established to cover such costs.

§ 39.78 Establishment of a formula implementation set-aside fund.

There shall be set aside an amount not to exceed \$2 million dollars to be used during fiscal year 1980 by the Director to facilitate the implementation of formula funding under this part. The fund is to provide the means of adjusting particular local school entitlements which are allocated in error due to underprojections, data error, misclassification of students, and similar reporting errors, or to provide for the initial funding of new schools under the formula, which have been started after the spring ADM counts, without reducing allotments made for other schools. Balances in this set-aside fund shall be apportioned through the formula during the first week in April by the Director or at such earlier time as he or she deems that significant ADM reporting fluctuations have ceased.

§ 39.79 Prohibition.

The formula implementation set-aside fund shall not be used as a discretionary fund by the Director for any purpose, and it shall be allocated solely through the Indian School Equalization Formula.

Subpart G—School Board Training

§ 39.90 Establishment of a school board training fund.

An amount shall be set aside annually for the purpose of providing training for school board members as authorized by Pub. L. 95-561, section 1129(d). Each school board shall receive a flat sum, initially for FY 1980 to be set at \$5,000, with Alaska and off-reservation boarding schools to receive an additional 25 percent of this flat sum amount per annum.

§ 39.91 Other technical assistance and training.

The provision of funds under § 39.90 of this subpart does not relieve the Director of the responsibility for assuring that adequate technical assistance and training services are provided to school boards to the greatest extent possible. The provision of assistance under this subpart does not preclude a school board or its trial governing body from receiving financial or other assistance from the Bureau under the Indian Self-Determination and Education Assistance Act (88 Stat. 2203; Pub. L. 93-638; 25 U.S.C. 450 et seq.).

§ 39.92 Training activities.

Training funds provided under this part may be used for training in the following subject areas:

- (a) Educational philosophy;
- (b) Community school programs;
- (c) Legal aspects of being a school board member;
- (d) School board operations and procedures;
- (e) Fiscal management;
- (f) Formula funding;
- (g) Personnel matters;
- (h) Union negotiations;
- (i) Contracting procedures and obligations;
- (j) Special curriculum areas;
- (k) Students' rights and responsibilities;
- (l) Education agency relations;
- (m) Alternative sources of Federal grants;
- (n) Juvenile justice;
- (o) Teachers training and inservice options;

(p) Needs assessment, program development, proposal writing; and

(q) Other training activities school boards deem appropriate and applicable to their situation and which are approved by the Director.

§ 39.93 Allowable expenditures.

Allowable expenditures under this subpart are limited to:

(a) Contracting with individuals and organizations for training services.

(b) Membership fees in school boards' associations and purchase of their materials and publications.

(c) Membership reimbursement for subsistence and travel expenses incurred while participating in training activities; and

(d) Cooperative contracts with other school boards for joint training or technical assistance activities.

§ 39.94 Limitations on expenditures.

(a) No expenditure may be authorized except in accordance with a decision of record by the school board and each payment shall be made under written authorization of the board chairperson.

(b) Expenditures under this subpart may not be made for school board members' stipends or honorariums associated with participation in training activities. Payments for such may, however, come from the school's operational budget, if so designated and approved in the school's operational budget, if so designated and approved in the school's local educational finance plan. The maximum amounts of such payments shall be determined in accordance with the laws or regulations of the tribe involved and shall be subject to approval by the Director. In the absence of such tribal laws or regulations, such maximums shall be determined by the Director in consultation with the school board. Payments under this subpart may not be made to any employee of a school served by the school board being trained or assisted.

§ 39.95 Reporting of expenditures.

An accounting of all expenditures of school board training funds shall be maintained as a supplement to each school's public accounting records.

§ 39.96 Provision for annual adjustment.

The allocation of \$5,000 per school may be annually adjusted by the Director.

§ 39.97 Training for agency school board.

Provisions for training agency school board members, except as they may also be members of local school boards, are not included in these local school board training funds. If required, such provision shall be incorporated in agency or area office educational administration training plans and budgets.

Subpart H—Student Transportation

§ 39.100 Definitions.

As used in this subpart, the term:

(a) "Basic transportation miles" means the daily average of all bus miles logged for round trip home-to-school transportation of day students.

(b) "Transported student" means the average number of students transported to school on a daily basis.

(c) "School bus" means a passenger vehicle, operated by an operator in the employ of, or under contract to, a Bureau operated or funded school, who is qualified to operate such a vehicle under State or Federal regulations governing the transportation of students; which vehicle is used to transport day students to and/or from home and the school.

§ 39.101 Purpose and scope.

The purpose of this section is to provide funds to each school for the round trip transportation of students between home and the school site.

§ 39.102 Allocation of transportation funds.

Transportation funds for FY 1980 shall be allocated to each school as follows:

(a) *Day students.* Funds shall be allocated to each school which provides daily transportation of students between the student's residence and the school site by the following formula.

(1) $180 \times (\$.85 \text{ per basic transportation mile} + \$.61 \text{ per transported student})$.

(2) The allocation shall be based on the daily average of transported students and basic transportation miles computed during the October and November count periods.

(3) This formula shall not apply to any dormitory which provides daily transportation between dormitory and the public school which the dormitory student attends.

(b) *Boarding school and dormitory students.* Funds shall be allocated to each boarding school and dormitory for the transportation of resident students according to the following criteria:

(1) For each student whose home is more than 1 mile and no more than 100 miles from the boarding school or dormitory, the school shall receive \$3.20 per mile per student per year. The miles per student shall be the shortest driving distance one way from the student's home to the school site. This provision applies only to those students for whom ground transportation is provided and for whom it is not necessary to provide air transportation.

(2) For each student whose home is more than 100 and no more than 350 miles from the boarding school or dormitory, the school shall receive \$1.50 per mile per student per year. The miles per student shall be the shortest driving distance one way from the student's home to the school site. This provision applies only to those students for whom ground transportation is provided and for whom it is not necessary to provide air transportation.

(3) For each student whose home is more than 350 miles from the boarding school or dormitory, the school shall receive \$.48 per mile per student per year. The miles per student shall be the shortest driving distance one way from the student's home agency to the school site. This provision applies only to those students for whom ground transportation is provided and for whom it is not necessary to provide air transportation.

(4) For each student whose home is more than 350 miles from the boarding school or dormitory and for whom it is necessary to provide airplane transportation, the school shall receive \$.60 per mile per student flown

per year. The miles per student shall be the actual one way air miles between the airport closest to the school site and the closest to the student's home. Airplane transportation shall be provided only when ground transportation is unavailable or not cost-effective.

(5) For each student attending Mt. Edgecumbe Boarding School, Sitka, Alaska, who requires airplane transportation, the school shall receive \$1.05 per mile per student flown per year. The miles per student shall be the one way air miles between the Sitka, Alaska airport and the airport nearest the student's home.

(6) At least 80% of the funds received by the school under 3, 4, and 5 above must be used for student travel between home and school.

§ 39.103 Annual transportation formula adjustment.

The Director will review transportation allotment factors each year and make changes in factors based on changes in transportation costs.

Subpart I—Interim Maintenance and Minor Repair Fund

§ 39.110 Establishment and funding of an Interim Maintenance and Minor Repair Fund.

There is established in the Division of Facilities Management a separate temporary fund entitled the Interim Maintenance and Minor Repair Fund. The Assistant Secretary shall cause the distribution of an amount of \$1 million, under the FY 1980 Appropriation for the Bureau, from budget activity 3500, "General Management and Facilities Operation", to the direct use of schools, and shall create an appropriate account or subaccount for the Interim Maintenance and Minor Repair Fund and credit these funds thereto.

§ 39.111 Conditions for distribution.

Funds from the Interim Maintenance and Minor Repair Fund shall be distributed to Bureau operated and funded schools and shall be separately earmarked in local school financial plans solely for expenditure at the dis-

cretion of the school supervisor for cost of school facility maintenance and minor repair. These funds shall be used to meet immediate minor repair and maintenance needs.

§ 39.112 Allocation.

(a) Interim Maintenance and Minor Repair funds shall be allocated to all Bureau operated and contract schools based on the number of square feet of floor space used for that school's educational program, for student residence and for support facilities. Staff quarters shall be specifically excluded from the computation.

(b) Square footage figures used in determining school allocations shall be taken from the facilities inventory maintained by the Division of Facilities Engineering.

(c) In those cases, such as contract schools, where square footage figures are not now available, it shall be the responsibility of the Bureau's Division of Facilities Engineering to correct the information.

(d) Schools in Alaska shall receive a 25% cost adjustment increase in the computation of their allocation.

§ 39.113 Use of funds.

Funds allocated under this provision for maintenance and minor repair shall be used for no other purpose.

§ 39.114 Limitations.

Nothing in this provision shall be interpreted as relieving the Bureau branch of Facilities Management or its field offices of any responsibility for continuing to provide maintenance and repair service to schools through existing procedures.

Subpart J—Interim Administrative Cost Formula

§ 39.120 Purpose and scope.

The purpose of this subpart is to provide funds at the Office of Indian Education Programs and the area and agency education offices for FY 1980 for administration of all Bureau of Indian Affairs education functions, including school operations, continuing education, and Johnson O'Malley programs.

§ 39.121 Definitions.

(a) "Area Education Office" means the office responsible for Bureau education programs and functions in a Bureau Area Office.

(b) "Area" means the Area Education Office and all agency education offices within the geographic area.

§ 39.122 Accounting.

A separate education administrative cost account element will be established in the Bureau's education funds accounting system beginning in FY 1980.

§ 39.123 Determination of present cost levels.

In previous years element 10 ("Education and Training-General") funds have included special program contracts as well as direct administrative costs. To determine what portion of element 10 constituted actual direct administrative costs for each area in FY 1979, the Director, in consultation with the Area Director for Education of the Area where the contract is now held, will review each of these element 10 contracts for FY 1979 and determine the appropriate status of each according to the following criteria:

(a) All contracts for non-administrative services shall be deleted from the computation of current and future administrative cost figures.

(b) Contracts for services which will be funded elsewhere under the Indian School Equalization Program shall be terminated as of September 30, 1979.

(c) All such contracts which provide unique educational services which are not funded elsewhere under the Indian School Equalization Program are to be reviewed on a contract by contract basis and a determination made by the Director whether each shall be continued or terminated. Those contracts which are continued shall be placed under an appropriate non-administrative education cost account. Funds equal to the FY 1979 contract amount shall be transferred to this account from the FY 1980 element 10 appropriation.

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§ 39.124

25 CFR Ch. I (4-1-90 Edition)

§ 39.124 Allotment of educational administrative funds.

The FY 1980 total budget for educational administration shall be allotted to the Director and to officials in the Area and Agency Education Offices designated by the Director. The total amount to be allotted shall be equal to the amount budgeted for element 10 in the FY 1980 budget appropriations request, less the amounts which were spent in FY 1979 for non-administrative contract programs and services (as determined in § 39.123) and less any reduction due to appropriation of less than the requested amount of a reprogramming approved by the Congressional Appropriation Committees. This total shall be called the "total available for allotment" and shall be distributed to the various BIA educational administration offices as follows:

(a) The Office of the Indian Education Programs allotment shall be \$4,353,400, which is equal to the FY 1979 element 10 budget. This amount shall be used to fund salaries and personal services, general office overhead, and management improvement projects. None of these funds shall be used to fund special projects. Any unused salary lapse occurring in the Office of Indian Education Programs as of August 1, 1980 shall be apportioned to the schools through the formula.

(b) Each area shall receive for both Area and Agency Education Office administration a share of the balance in the total available allotment, after funds for the office of Indian Education Programs have been allotted, which shall be computed as follows:

(1) The Area's share for administration of Johnson O'Malley (JOM) and Higher Education and Adult Education programs shall be equal to 2% of the total of JOM and Higher Education and Adult Education funds for programs administered in and by the Area. This sum shall be computed and allotted to the Area from the total available for allotment prior to computation of any additional amounts for the Area.

(2) The funds remaining in the total available for allotment shall be allocated for the general administration of

educational functions in all Area and Agency Education Offices to be apportioned as follows:

(i) Twenty percent of the remaining total available for allotment shall be apportioned on the basis of each area's percentage of Indian students in average daily membership in Bureau operated and funded schools in the area compared to the national total of such membership.

(ii) The remaining 80 percent shall be apportioned on the basis of number of Bureau operated or funded schools and institutions located within the area. These funds shall be apportioned across areas based on a weighting factor .6 times the number of schools tribally operated under contract or other conveyance and a weight of 1.0 times the number of schools which are Bureau operated.

(3) To meet the statutory requirements for a salary supplement for Alaskan educational staff, an add-on weight of .25 will be used as a factor in determining the amount for distribution within the Juneau area under § 39.124(b) (1) and (2).

§ 39.125 Allotment exceptions.

Notwithstanding the provisions above, no Area shall receive less than 85% of the amount allotted to that Area for education administration in element 10 in FY 1979, excluding the sum spent on non-administrative contracts in FY 1979.

§ 39.126 Distribution of administrative funds within area.

Within each Area, funds allotted to that Area shall be distributed to the Area and Agency Education Offices as follows:

(a) No Area Education Office shall receive an amount in excess of 85% of the element 10 allotments which that office received in FY 1979 exclusive of non-administrative contracts, except with the consent of the Director.

(b) Remaining funds in the Area after allotment to the Area Education Office shall be allotted by the Director to agency education offices on the basis of financial plans approved by Agency School Boards, where such boards exist, and in those cases where

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no school boards exist approved by the Director.

(c) In cases where the Director must during the course of the fiscal year make administrative transfers of Area or Agency administrative positions for the purpose of implementing policy decisions on direct line authority, the budgeted amounts for salary and other direct costs associated with those positions shall be transferred with them.

(d) Within 120 days of the effective date of this Part, the Director shall establish procedures to provide for Agency and Area school board approval of Area and Agency financial plans, where such boards are established.

(e) In developing such procedures, he or she shall consult all affected tribal governments of each area or agency.

§ 39.127 Exceptional education services at area and agency offices.

An amount of \$700,000 shall be distributed to the Areas based on the Area's proportion of the number of exceptional education students in average daily membership in all Bureau funded schools. These funds shall be used only for exceptional education services and program coordination.

§ 39.128 Provision for administrative cost formula based on administrative functions.

The Director shall propose amendments to these regulations to provide a formula system for distribution of administrative funds to Area and Agency Education Offices based on education functions to be performed at each location. This system of distribution shall be implemented for FY 1981, to reflect the education functions to be performed at each administrative level.

Subpart K—Pre-kindergarten Programs

§ 39.130 Interim fiscal year 1980 and fiscal year 1981 funding for pre-kindergarten programs previously funded by the Bureau.

Those schools having pre-kindergarten programs funded fully or in part from Bureau education funds in fiscal

year 1979 shall be funded from Bureau education funds by the Director in fiscal year 1980 and fiscal year 1981 at their fiscal year 1979 Bureau education funding levels. The fiscal year 1979 pre-kindergarten Bureau funding amount for each Bureau funded school shall be deducted from the school's fiscal year 1979 Bureau Education Budget amount prior to application of the phase-in provision detailed in § 39.19.

§ 39.131 Addition of pre-kindergarten as a weight factor to the Indian School Equalization Formula in fiscal year 1982.

The Director, in consultation with the tribes and school boards, shall determine appropriate weight factors needed to include pre-kindergarten programs in the Indian School Equalization Formula in fiscal year 1982. Based on a needs assessment, to be completed by January 1, 1980, pre-kindergarten programs shall be included in the Bureau's education request for fiscal year 1982.

Subpart L—Contract School Operation and Maintenance Fund

§ 39.140 Definitions.

Contract school operation and maintenance costs for fiscal year 1979 means the sum of costs for custodial salaries and fringe benefits, related supplies and equipment and equipment repair, insurance, and school operation utilities costs, where such costs are not paid by the Division of Facilities Management or other noneducation Bureau sources.

§ 39.141 Establishment of an interim fiscal year 1980 operation and maintenance fund for contract schools.

There is established in the Division of Facilities Management a separate fund entitled the Contract School Operation and Maintenance Fund. The Secretary shall cause the distribution of an amount of \$2.5 million, under the fiscal year 1980 appropriation for the Bureau, from budget activity 3500, "General Management and Facilities Operations", to the schools through this fund and shall create an appropri-

ate account or subaccount for the Contract School Operation and Maintenance Fund.

§ 39.142 Distribution of funds.

(a) Each contract school shall receive in fiscal year 1980 a portion of the Contract School Operation and Maintenance Fund determined by the percentage share which that school's fiscal year 1979 operation and maintenance cost represents in the total fiscal year 1979 operation and maintenance cost for all such schools.

(b) To be eligible for these funds, a contract school shall submit a detailed report of actual operation and maintenance costs for fiscal year 1979 to the Director by November 23, 1979. These cost figures will be subject to verification by the Director to assure their accuracy prior to the allotment of any funds under this subpart.

(c) Any funds generated under this subpart shall be included in the computation of the phase-in amount as set forth in § 39.19 if supplemental operation and maintenance funds were included in a school's fiscal year 1979 3100 contract funds.

§ 39.143 Future consideration of contract school operation and maintenance funding.

The Assistant Secretary shall arrange for full funding for operation and maintenance of contract schools by fiscal year 1981.

PART 40—ADMINISTRATION OF EDUCATIONAL LOANS, GRANTS AND OTHER ASSISTANCE FOR HIGHER EDUCATION

Sec.

40.1 Appropriations for loans or grants.

40.2 Working scholarships.

40.3 Applications.

40.4 Security.

40.5 Repayments.

AUTHORITY: Sec. 11, 48 Stat. 986; 25 U.S.C. 471.

SOURCE: 22 FR 10533, Dec. 21, 1957, unless otherwise noted. Redesignated at 47 FR 13327, Mar. 30, 1982.

§ 40.1 Appropriations for loans or grants.

Funds appropriated by Congress for the education of Indians may be used

for making educational loans and grants to aid students of one-fourth or more degree of Indian blood attending accredited institutions of higher education or other accredited schools offering vocational and technical training who reside within the exterior boundaries of Indian reservations under the jurisdiction of the Bureau of Indian Affairs or on trust or restricted lands under the jurisdiction of the Bureau of Indian Affairs. Such educational loans and grants may be made also to students of one-fourth or more degree of Indian blood who reside near the reservation when a denial of such loans or grants would have a direct effect upon Bureau programs within the reservation. After students meeting these eligibility requirements are taken care of, Indian students who do not meet the residency requirements but are otherwise eligible may be considered.

133 FR 9708, July 1, 1968. Redesignated at 47 FR 13327, Mar. 30, 1982]

§ 40.2 Working scholarships.

Working scholarships may be granted to Indians who wish to earn their board and room by part-time work at Federal boarding schools that are located near a college, trade, or vocational school.

§ 40.3 Applications.

Applications for educational loans, grants, and working scholarships shall be submitted through the superintendent or officer in charge of the agency at which the applicant is enrolled in the manner prescribed by the Commissioner.

§ 40.4 Security.

If a borrower or cosigner has security to offer for an educational loan it must be given in an amount adequate to protect the loan.

§ 40.5 Repayments.

Repayment schedules for educational loans may provide not to exceed two years for repayment for each year in school.

Consultation Item # 2

CONSULTATION ITEM/TOPIC: Academic/Dormitory Standards.

POTENTIAL ISSUE OR CHANGE: To amend selected sections of the Academic and Dormitory standards (25 CFR 36).

REASON FOR PROPOSING
ISSUE OR CHANGE: To incorporate regulatory changes required by the passage of Public Laws.

CURRENT OPTION(S) BEING
CONSIDERED BY THE BUREAU:

1. To provide for the waiver of dormitory criteria (standards).
2. To require immunization for childhood diseases.

BACKGROUND

Public Law 100-297, section 5105 provides authority to waive dormitory criteria (standards) established under Section 1122 of Public Law 95-561 in the same manner that academic standards may be waived.

Public Law 98-511, section 502 requires that standards established under Section 1121 of P. L. 95-561 include a requirement for immunization against childhood diseases.

The OIEP is, therefore, proposing to amend applicable sections of 25 CFR 36 - Minimum Academic Standards for the Basic Education of Indian Children and National Criteria for Dormitory Situations. The proposed changes are shown in the attached Exhibits 2-A and 2-B.

PROPOSED CHANGES

The proposed changes, including an explanation for each and sections of the regulations which will be affected by the changes are described as follows:

SECTION PROPOSED CHANGE AND THE REASON FOR PROPOSING THE CHANGE

*****DORMITORY STANDARDS' WAIVER***** (EXHIBIT 2-A, page 2-3)

36.77 Proposed Change 2.1: To add a new section 36.77 to set out provisions by which Dormitory criteria (standards) may be waived.

Reason for Change: To implement provisions of P. L. 100-297 which permit the waiving of dormitory criteria (standards).

*****IMMUNIZATION***** (EXHIBIT 2-B, page 2-5)

36.11 Proposed Change 2.2: To add a new Subpart (d) to include requirements for immunization against childhood diseases.

Reason for Change: To implement provisions of P.L. 98-511 which requires inclusion of immunization requirements related to childhood diseases as a part of standards established by P.L. 95-561, Section 1121.

EXHIBITS

EXHIBIT 2-A

DORMITORY STANDARDS' WAIVER

36.77 Waivers and revisions

Current

Proposed

None

(a) The tribal governing body (tribe), or the local school board (LSB), if so designated by the tribe, shall have the local authority to waive or revise in part or in whole, the standard(s) established in this part if the standard(s) are determined to be inappropriate or if they fail to take into account specific needs of the tribe's children. This includes Bureau operated schools. When the tribe or the local school board, if designated by the tribe, waives or revises the standard, it shall within 60 days submit the waiver or revision to the Assistant Secretary for approval. In the interim between obtaining approval, the standard of this part or minimum state standards shall apply to the affected school(s). The Assistant Secretary shall respond in writing within 45 days of receipt of the waiver or revision. The waiver shall be granted or the revision shall be established by the Assistant Secretary unless specifically rejected for good cause and in writing. The written rejection shall be sent to the affected tribe(s) and LSB. Such rejection shall be final. All revised standards shall be submitted to the Assistant Secretary in writing and will follow the following procedure:

(1) Waivers and revisions must be submitted at least 75 days prior to the beginning of the school year.

(2) The section or part to be waived must be specified and the extent to which it is to be deviated from shall be described.

(3) A justification explaining why the alternative standard is

EXHIBIT 2-A (Cont'd)

DORMITORY STANDARDS' WAIVER

36.77 Waivers and revisions (con't)

determined necessary shall be included with the revised standard.

(4) Measurable objectives and the method of achieving the alternative standard along with the estimated cost of implementation must be stated.

(b) The Assistant Secretary shall assist the school board of an Indian-controlled contract school in the implementation of the standards established in this part if the school board requests that these standards, in part or in whole, be implemented. At the request of an Indian-controlled contract school board, the Assistant Secretary shall provide alternative or modified standards to those established in this part to take into account the needs of the Indian children and Indian-controlled contract school.

EXHIBIT 2-B

IMMUNIZATION

36.11 - Immunization for childhood diseases

Current

Proposed

None

To add subsection (d) to Section 36.11 to read as follows:

(d) Immunization. School children shall be immunized in accordance with the regulations and requirements of the state in which they attend school.

Consultation Item # 3

CONSULTATION ITEM/TOPIC:	Long Range Planning.
POTENTIAL ISSUE OR CHANGE:	To establish the first of several parts of a Long Range Planning Process to guide the OIEP to the year 2000.
REASON FOR PROPOSING ISSUE OR CHANGE:	To implement an FY 1991 budget Goal or initiative.
CURRENT OPTION(S) BEING CONSIDERED BY THE BUREAU:	To use the attached documents as a guide for the OIEP's efforts to the year 2000.

BACKGROUND

The Bureau's FY 1991 congressional budget request identified as it's long range goal the improvement of student achievement in BIA-funded schools to levels that meet or exceed national norms by the year 2000.

To guide it's efforts towards this goal, the Bureau has drafted the following documents:

*****TRANSMITTAL TO OMB***** (EXHIBIT 3-A, page 3-3)

This Exhibit is the memorandum from the Assistant Secretary - Indian Affairs transmitting the documents included as Exhibits 3-B, 3-C and 3-D the Office of Management and Budget.

*****EDUCATIONAL OBJECTIVES***** (EXHIBIT 3-B, page 3-5)

The Exhibit is a set of educational objectives for early childhood, elementary and secondary and post-secondary education programs.

Within each of the three program categories, objectives were identified for student improvement, school improvement and administrative improvement.

*****PERFORMANCE DATA OF OBJECTIVES***** (EXHIBIT 3-C, page 3-15)

The Exhibit identifies the types of performance data to be collected on an on-going, year-to-year basis to assess accomplishment(s) of the stated educational objectives.

*****ACTION PLANS***** (EXHIBIT 3-D, page 3-24)

The Exhibit is a set of action plans for each of the programs identified in Exhibits 3-B and 3-C.

EXHIBITS



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240



NOV 13 1990

Mr. Dave Gibbons
Deputy Associate Director, for
Natural Resources
Office of Management and Budget
NEOB, Room 8208
725 17th Street, N.W.
Washington, D.C. 20503

Dear Mr. Gibbons:

In our meeting on October 3, 1990, you inquired about how we planned to achieve our educational goals by the year 2000. Dr. Ed Parisian, Director of the Office of Indian Education Programs (OIEP), has submitted to me his Education 2000 Improvement Plan. It covers the major education areas of: early childhood, elementary and secondary, post secondary, and educational administration.

For each area, goals are established for student improvement, school improvement and administration improvement. These goals will be traced through the decade using the indicators and data identified in column two.

A comprehensive evaluation system is being developed to establish base line data for the different areas and document annual progress. We plan to have our expanded OIEP Planning, Oversight and Evaluation staff assume responsibility for maintaining and monitoring our Education 2000 Improvement Plan.

With this approach, OIEP will better serve students in Bureau of Indian Affairs (BIA) funded schools while at the same time providing timely management information. For example, school administrators will be able to use portions of this plan to identify problem areas requiring follow-up activities. In addition, policy officials and staff within the Department of the Interior and OMB, along with members of Congress will be able to evaluate the BIA's education progress and identify any needed revisions.

As with the accountability model for the Reservation Development Grant initiative that we recently transmitted, we welcome any thoughts or suggestions.

Sincerely,

Eddie F. Brown

Assistant Secretary - Indian Affairs

Enclosure

November 8, 1990

EDUCATION OBJECTIVES

INDICATORS/ DATA	OBJECTIVES	ACTION PLAN
I. Early Childhood		
A. Student/Parent Development 0-2 Years (Home Based)		
1. Increase parents' knowledge of effective child rearing skills.	1.1 (#) To increase the total (cumulative) # of trained parents by 10% each year.	ECOP
2. Provide screening in areas of motor, language, social, emotional, hearing and vision development and refer if potential problem is detected.	2.1 (#) To increase the total # of students screened by 10% each year.	ECOP
3. Increase level of cognitive, affective and psycho-motor stimulation received by the child.	3.1 (#) To increase the total # of student participating by 10% each year.	ECOP
4. Improve the methods by which the child's health/nutrition needs are met.	4.1 (#) To increase the total # of homes visited by 10% each year.	ECOP
5. Determine language dominance of homes	5.1 (#) To increase students' facility with the English language and retain usage and respect for other dominant languages.	ECOP
B. 2-5 Ages (Center Based)		
1. Increase formal education of parent.	1.1 (#) To increase the total # of parents receiving HS/GED or Community College courses by 10% each year.	ECOP
2. Increase parents' knowledge of parenting skills and child development through formal course work.	2.1 (#) To increase the total # of trained parents by 10% each year.	ECOP
3. Increase child's level of functioning in social, cognitive, affective and motor activities.	3.1 (#) To increase the total # of students participating by 11% each year.	ECOP

EXHIBIT 3-B

185

186

1

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November 6, 1990

INDICATORS/
DATA

OBJECTIVES

ACTION PLAN

4. Maintain consistent rates of attendance.	4.1 % attendance rates (ADA/ADM)	4.1(a) To improve the average daily student attendance rate by 1% each year.	ECDP
5. Determine English language fluency of students	5.1 % of students who pass English language fluency tests	5.1(a) To increase English language fluency while retaining respect and usage of other dominant languages.	ECDP
C. <u>Learning Center Improvement</u>			
1. Provide appropriate curriculum.	1.1 Number of programs which meet Early Childhood Development (ECD) guidelines	1.1(a) To increase the percentage of programs which meet ECD guidelines by 5% each year.	ECDP
2. Provide appropriate number of instructional staff.	2.1 % of classroom with appropriate Student/Teacher ratios	2.1(a) To ensure all classrooms have appropriate student teacher ratios.	ECDP
3. Provide qualified staff.	3.1 % of staff meeting National (CDA) Guidelines for teachers	3.1(a) To increase % of staff meeting national criteria by 10% each year.	ECDP
4. Provide appropriate health/safety environment at learning center.	3.2 Number of hours of in-service training	3.2(a) Provide in-service training at least twice each year.	ECDP
5. Provide appropriate transportation. Parents transported per day/week	4.1 Number of State/Federal Code Violations	4.1(a) To eliminate all state/federal code violations.	ECDP
D. <u>Administrative Improvements</u>	5.1 Number of Students/ to classes.	5.1(a) To ensure that all participants have adequate transportation	ECDP
1. Tracking of children from ECDP through Elementary School.	1.1 % of projects with Student data base	1.1(a) To implement a tracking system to ensure that at 75% of the children have follow-up on various success indicators.	ECDP
2. Evaluate staff performance for Home Instructors and Learning Center Staff.	2.1 % of staff meeting individual performance evaluation criteria	2.1(a) To have 85% of staff meet individual performance evaluation criteria.	ECDP
3. Evaluate efforts of Home and Center Based Programs.	3.1 Annual Evaluations of project performance	3.1(a) To increase # of staff who meet individual performance evaluation by 25%.	ECDP
4. Provide on-going training and technical assistance for parents, home instructors and learning center staff.	4.1 # of Weekly/Monthly Seminars and Workshops	4.1(a) To increase # of weekly/monthly seminars and workshops by 10%.	ECDP
5. Disseminate ECDP results/achievements	5.1 Number of Newsletters published	5.1(a) To increase the number of newsletter published by 10%.	ECDP

INDICATORS/
DATA

OBJECTIVES

ACTION PLAN

II. Elementary & Secondary

A. Student Improvement

1. Raise achievement score (year 2000 goal)	1.1 Mean NCE's gains	1.1(e) Increase NCE gains by '6 NCE's yearly system - wide	E/S
	1.2 Increase on English language language fluency tests	1.2(f) Implement English lang. Age fluency testing program in FY 92	E/S
2. Document and improve performance on performance based tests (States are moving toward this form of assessment)	2.1 Improvement on Performance scales	2.1(f) Implement Performance Assessment Development Task Force in FY 1991	E/S
3. Improve attendance rates	3.1 ADA/ADM % attendance	3.1(f) Increase attendance rate by 5% system wide in FY 1991	E/S
4. Reduce dropout rates/improve school retention	4.1 % dropouts	4.1(f) Reduce dropout rates by 5% in BIA operated schools	E/S
	4.2 What % of students who start at school x finish there	4.2(f) Increase % of student retained at same schools by 5%	E/S
	4.3 Comparison of EODP Participants with control groups on all of the above	4.3(f) EODP participants' performance will exceed that of those not in EODP programs.	E/S

B. Learning Center Improvement

1. To train school staff in a school improvement process (Effective School Program)	1.1 # of schools in program	1.1(f) Increase # of schools by 10 in FY 1991	E/S
	1.2 # of administrators trained	1.2(f) Train 70 administrators in FY 1991	E/S
	1.3 # of schools with completed improvement plans	1.3(f) 60 schools with school improvement plans	E/S
	1.4 # of schools with needs assessments completed	1.4(f) 80 schools with needs assessments	E/S
2. To monitor all schools for standards compliance and evaluate them for quality. (Monitoring/Evaluation)	2.1 # of schools monitored	2.1(f) Monitor 30 schools in FY 1991	E/S
	2.2 # of schools completing Standards Compliance Report	2.2(f) 80 schools completed standards compliance report	E/S
	2.3 % of schools accredited by by accrediting association	2.3(f) 75% of schools will be accredited by accrediting associations in FY 92.	E/S
3. Schools will share programs that work (Sharing Excellence Network)	3.1 % of schools in programs	3.1(f) 20% of schools in SEN Program in FY 1991	E/S
	3.2 Report of Programs that work	3.2(f) 36 Reports submitted and disseminated	E/S
4. Schools with good programs are recognized and paired with other schools to assist them. (Exemplary Schools)	4.1 # of schools in programs	4.1(f) 20 schools in program in FY 1991	E/S
	4.2 Report of improvements made at sister schools	4.2(f) 1 20 school reports submitted detailing accomplishments	E/S

INDICATORS/
DATAOBJECTIVESACTION PLAN

5. Based upon documented needs assessment and schools improvement plans; schools will apply for funds for specific school improvement activities (Education 2000 Program)	5.1 # of schools who apply for funds	5.1(a) 90 schools will apply for funds in FY 1992	E/S
	5.2 # of schools who are funded	5.2(a) 70 schools will be funded.	E/S
	5.3 Report of results of school improvement	5.3(a) 90 schools will report on progress	E/S
6. Schools plan and implement school improvement efforts related to Chapter I (Chapter I School Improvement Programs)	6.1 % of schools who apply for funds	6.1(a) 50% apply in FY 1991; 75% apply in FY 1992; and 100% apply in FY 1993	E/S
	6.2 % of schools who are funded	6.2(a) 75% are funded by 1993.	E/S
	6.3 Chapter I evaluation	6.3(a) 100% of all schools submit evaluation reports on School Improvement efforts	E/S
7. Train teachers and counselors on recent research on teaching and learning and on methods to improve the effective domain (Teacher/Counselor Training)	7.1 % of teachers trained	7.1(a) 50% of all teachers and counselors trained in FY 1991; 50% trained each succeeding year	E/S
8. Drug Free Schools Program/Safe School Environment	8.1 Reduction of incidents reported	8.1(a) 10% reduction system wide in incidents related to alcohol	E/S
	8.2 # of counselors meeting certification	8.2(a) Increase by 5 each year # meeting alcohol/drug abuse certification	E/S
	8.3 # schools establishing drug free zones	8.3(a) Establish 40 drug free zones at schools each fiscal year	E/S
C. <u>Administrative Improvement</u>			
1. Decrease teacher turnover rate	1.1 Decrease in % of teacher resignations	1.1(a) Teacher retention in BIA funded schools shall increase by 5% annually.	E/S
	1.2 # of teacher vacancies	1.2(a) Vacancies by start of school will be no more than 100.	E/S
	1.3 # of Indian teachers	1.3(a) # of Indian teachers will increase by 5% annually.	E/S
2. Evaluating Staff performance	2.1 Implementation of Effective Schools staff Evaluation system in ___ % of schools	2.1(a) Implement the Effective Schools staff evaluation system in 100% of the BIA funded schools.	E/S
3. Increase principals' time as instructional leader	3.1 Reduce paperwork study	3.1(a) Increase the principals' time on instructional leadership to 80%.	E/S
	3.2 Administrative changes made		

INDICATORS/
DATA

OBJECTIVES

ACTION PLAN

4. Improve procurement process	4.1 # of requisitions submitted compared to # of purchase orders processed	4.1(a) All education requisitions and payments will be timely.	ES
5. Reduce payroll processing complaint incidents	5.1 # of complaint incidents	5.1(a) All payroll processing complaints shall be eliminated.	ES
6. Improve timeliness for preventive maintenance	6.1 Facility Mgmt. Annual Report	6.1(a) All preventive maintenance is accomplished on an annual basis.	ES
7. Improve aesthetics of physical plants	7.1 Comparisons from on-site assessments	7.1(a) All school facilities will be clean, safe, and attractive to the students and the public.	ES
8. Establish more accurate financial reporting	8.1 Comparisons with out accounts	8.1(a) All education funding will be accurately accounted for on a quarterly basis.	ES
9. Establish Student enrollment/tracking system	9.1 % of schools with operating student enrollment/tracking system	9.1(a) All BSA funded schools will monitor all enrolled students annually.	ES
10. Improve screening process for sensitive positions	10.1 % of OEP employees screened	10.1(a) To screen all OEP employees in sensitive positions	ES

III. POST SECONDARY

A. ADULT EDUCATION PROGRAM

1. Student Improvement			
a. Increase the numbers of student attending Adult Education Programs	a.1 Enrollment Numbers	a.1(a) To increase the total # of adults attending Adult Education Programs by 10% each year.	PS
b. Increase Completion Rate	b.1 Graduates	b.1(a) To increase the completion rate of adults by 10% each year.	PS
c. Training/Retraining Programs	c.1 Enrollment	c.1(a) To increase the total (cumulative) # of trained adults by 10% each year.	PS
d. Improve student retention	d.1 What % who start, finish - % of dropouts	d.1(a) Increase the % of adults retained in programs by 10% and reduce the drop-out rate by 10% in Adult Education Programs.	PS
e. Proper preparation for career	e.1 # of students served	e.1(a) Increase the # of adults served by program expansion to include adult literacy by 15%.	PS
	e.2 # of students counseled	e.2(a) Develop and implement appropriate counseling programs to retain adults.	PS
1. Monitor Student Progress	1.1 Develop student data base	1.1(a) To document the progress of adults with the development of a data base.	PS

November 6, 1980

**INDICATORS/
DATA****OBJECTIVES****ACTION PLAN**

2. <u>School Improvement</u>			
a. <u>Improvement of Program Services</u>	a.1 Evaluation/Monitoring	a.1(e) To evaluate and monitor 50% of programs for effectiveness, innovation and improvement in FY 1981.	PS
b. <u>Teletaching Projects</u>	b.1 Expand to all Adult Education project	b.1(e) To initiate teletaching projects for adults with plans to expand to all Adult Education Programs.	PS
3. <u>Administrative Improvement</u>			
a. <u>Improve financial reporting system</u>	a.1 # of financial reports received on time	a.1(e) To identify the current amount of FY funds used by each program for services.	PS
	a.2 % of budget obligated		
b. <u>Improve communication link with Central Office</u>	b.1 Dissemination Assessment	b.1(e) To implement dissemination projects for adult education and improve the communication link with local projects.	PS
c. <u>Increase training & T/A to Administrators of</u>	c.1 # of hrs. of training and T/A	c.1(e) To increase the # of hours of training and T/A by 50%	PS
	c.2 # of Seminars and Workshops	c.2(e) To increase # of weekly/monthly seminars, workshops and and technical assistance by 10%.	PS
d. <u>Increase Financial Base of Adult Education Programs</u>	d.1 # of students served and funded, \$ funded	d.1(e) To adequately serve the # of adults needing services to address the drop-out rate of High Schools. Vocational programs, funds are needed to address adult literacy.	PS
B. <u>HIGHER EDUCATION GRANT PROGRAM</u>			
1. <u>Student Improvement</u>			
a. <u>Increase the numbers of student attending Post Secondary Schools</u>	a.1 Enrollment Numbers	a.1(e) To increase the # of students attending post-secondary schools by providing funds to applicants on the waiting lists.	PS
b. <u>Increase Completion Rate</u>	b.1 Graduates	b.1(e) To increase the completion rates by 10% for graduates from higher education programs.	PS
c. <u>Teaching/Retaining Programs</u>	c.1 Enrollment	c.1(e) To increase the total (cumulative) # of training and re-teaching programs for graduates to update skills.	PS
d. <u>Improve student retention</u>	d.1 What % who start, finish - % of dropouts	d.1(e) Increase the % of students retained in Higher Education by 10% and reduce drop-out rate by 10%.	PS
e. <u>Proper preparation for career</u>	e.1 # of students served and counseled	e.1(e) Increase the # of students served and counseled for appropriate careers by 10%.	PS
f. <u>Monitor Student Progress</u>	f.1 Develop student data base	f.1(e) Implement the monitoring with the development of an accurate student data base.	PS

November 6, 1990

INDICATORS/
DATA

OBJECTIVES

ACTION PLAN

2. School Improvement

a. Program Improvement

a.1(a) To evaluate and monitor 50% of the programs for compliance with the Higher Education Grant Program requirements. PS

3. Administrative Improvement

a. Improve financial reporting system

a.1(a) To assess the fiscal accountability of each Higher Education Program. PS

b. Improve communication link with Central Office

b.1(a) To implement a dissemination project to improve communication with local programs. PS

c. Increase training & T/A to Administrators of Higher Education Programs

c.1(a) Increase the # of hours of training and T/A, seminars and workshops to administrators by 10% for FY 1991. PS

d. Increase Financial Base of Higher Education Grant Program

d.1(a) To increase the total \$ of students in the Higher Education Grant Program by increasing the financial base to serve students on the waiting list. PS

C. TRIBALLY CONTROLLED COMMUNITY COLLEGES1. Student Improvement

a. Increase the numbers of student attending Tribally Controlled Community Colleges (TCCC's)

a.1(a) Increase enrollment 10% annually through 1998; 5% through 2008. TCCC/PS

b. Increase Completion Rate

b.1(a) Increase number of graduates to 90% per year (10% per year through 2003). TCCC/PS

c. Training/Retraining Programs

c.1(a) Increase by 2 training programs per year for first 5 years; 1 per year for next 5; total 15 in-service training for all faculty and staff. TCCC/PS

d. Improve student retention

d.1(a) Cut drop-out rate from present rate of 45% to national norm of 10%. TCCC/PS

e. Proper preparation for career

e.1(a) Operational 1995 - Establish counseling programs-year 1; Implement-year 2; Counsel all entering students-year 2; Follow-up each year. TCCC/PS

f. Monitor Student Progress

f.1(a) That all students will meet graduation requirements. (See b.1(a), d.1(a) and e.1(a)). TCCC/PS

INDICATORS/ DATA	OBJECTIVES	ACTION PLAN
2. <u>School Improvement</u>		
a. Improvement of Library Services	a.1 Meet accreditation agency standards	a.1(a) All fully accredited TCCOs meet above agency, accreditation standards; others meet average level. TCCCPS
b. Teletaching Projects	b.1 Number of teletaching courses	b.1(a) Remaining 7 TCCOs have teletaching networks by 1995; the 16 that have equipment design and implement teletaching by 1991. Fully functional in 1993. TCCCPS
3. <u>Administrative Improvement</u>		
a. Improvement of Facilities by Renovation, Construction and Beautification.	a.1 All colleges meet OSHA and accreditation agency standards. # of beautification projects	a.1(a) OCM to conduct OSHA-type survey of all colleges. Complete by 1993. All TCCOs will plan and implement projects by 1993. TCCCPS
b. Increase financial reporting system	b.1 Number of TCCOs that have computerized accounting systems.	b.1(a) That 1/2 of TCCOs will have completely computerized system by 1994. The other 1/2 by 1996. TCCCPS
c. Improve communication link with Central Office.	c.1 Number of complaints concerning lack of response to requests for information.	c.1(a) To cut number of complaints to 1 per TCCC by 1992. TCCCPS
d. Increase training & T/A to Administrators of	d.1 # of training and T/A sessions. Number and diversity of topics and issues addressed.	d.1(a) Beginning 1991, to expand the training and T/A sessions to include other topics besides ICS, rules and regulations, etc. Include in budget-based to attend quarterly AHEC meetings. TCCCPS
e. Increase Financial Base of Post Secondary Education	e.1 Increase funding per ICS and Endowment Investment Income.	e.1(a) Continue to recommend \$5280/ISC with annual COL increases. Recommend \$1 Endowment each year through 1995. Proportionate increase thereafter. PS
D. <u>SOUTHWESTERN INDIAN POLYTECHNIC INSTITUTE (SPI)</u>		
1. <u>Student Improvement</u>		
a. Increase Student Enrollment	a.1 Increase all aspects of recruiting activity	a.1(a) Increase enrollment by 10% per year through 1998. SPI
b. Increase Student Completion	b.1 Increase # of graduates	b.1(a) Increase # of graduates by 10% per year through 2000. SPI
c. Staff Training/Retraining	c.1 Increase in internal training opportunities for all staff members	c.1(a) Increase by 2 training programs p/r year, per training area through 1998. SPI
d. Improve Student Retention	d.1 Cut overall student drop-out rate	d.1(a) Cut SPI's academic drop-out rate to that of the national norm of approximately 10%. SPI
e. Student Career Orientation/Preparation	e.1 Increase all aspects of student career counseling	e.1(a) Analyze all counseling efforts (1991); revise and add three psychologist (1991); revise and add one additional counseling activity each year through 1998. SPI

November 6, 1990

INDICATORS/
DATE:OBJECTIVES:ACTION PLAN

1. Monitor Student Progress (grades, absenteeism, 1.1	Increase staff and counselor involvement in all aspects of student life	1.1(a)	Network total student recordkeeping system (1991); increase staff/counselor/student interaction (on-going).	SPT
2. <u>School Improvement</u>				
a. Improvement of Library Services	a.1 Meet accreditation standards (NCA)	a.1(a)	Library currently meets accreditation requirements per NCA standards.	SPT
b. Teleaching Projects	b.1 Establish Teleaching system and network at SPT	b.1(a)	Research teleaching possibilities for SPT (1991); purchase equipment (1992); begin broadcasting (1993).	SPT
c. Vocational Rehabilitation	c.1 Implement existing Voc-Rehab plan	c.1(a)	Hire voc-rehab specialist (1991); modify facilities (1991-on-going); develop courses (1991-on-going)	SPT
3. <u>Administrative Improvement</u>				
a. Improvement of SPT Facilities by Renovation,	a.1 Implement all improvements identified in SPT's FLIR	a.1(a)	All plans are identified on SPT's FLIR with timetables.	SPT/OCM
b. Improve Financial Reporting System	b.1 Improve staff accounting skills and develop computerized accounting system for the school	b.1(a)	Purchase equipment (1991); design accounting system (1991); integrate new system (1991-1992).	SPT
c. Improve SPT Communications Link with Central Office	c.1 Reduce all levels of miscommunication	c.1(a)	Develop computer network with Central Office to speed communication (1992); reduce all complaints to zero (on-going).	SPT/OREP
d. Increase Training and T/A to SPT Administrators of Postsecondary Training Departments/Programs	d.1 Completely analyze staff training needs and provide necessary skill up-grading resources	d.1(a)	All administrators will be evaluated for training needs (1991); necessary training provided through EPT/DP (on-going).	SPT
e. Increase Financial Base of Postsecondary Education Programs at SPT	e.1 Explore every possible governmental and private sector funding source	e.1(a)	Establish SPT/OREP foundations and committees (1991); raise money (on-going).	SPT
<u>E. HASKELL INDIAN JUNIOR COLLEGE (HASKELL)</u>				
1. <u>Student Improvement</u>				
a. Increase the numbers of student attending 4-year colleges	a.1 Recruitment contacts - increased Enrollment, increased # of returning	a.1(a)	Increase enrollment 10% annually through 2000; from current 830 to 2000.	HASKELL
b. Increase Completion Rate	b.1 Increase # of Graduates	b.1(a)	Increase number of graduates to 15% per year from current 120 to 422 by year 2000.	HASKELL
c. Improve and expand Educational programs	c.1 Streamline existing programs; expand to baccalaureate degrees	c.1(a)	Strengthen core requirement for transferability; add curricula for primary and secondary education.	HASKELL
d. Improve student retention	d.1 Cut drop-out rate (present 25%)	d.1(a)	Cut drop-out rate from present rate of 25% to national norm of 10%.	HASKELL

INDICATORS/ DATA	OBJECTIVES	ACTION PLAN
e. Oper preparation for career	a.1 Number of counseling sessions with students e.1(a) Operational 1985 - Establish counseling programs year 1; Implement year 2; Counsel all entering students year 2; Follow-up each year.	HASKELL
1. Monitor Student Progress	e.2 # of students counseled 1.1(a) That all students will meet graduation requirements. (See b.1(a), d.1(a) and e.1(a)).	HASKELL
2. <u>School Improvement</u>		
a. Improvement of Library Services	a.1 Increase library holdings a.1(a) Increase holding 10% per year. Computer network with five libraries by FY 2000.	HASKELL
b. Improve Computer environment	b.1 Increase capacity and # of sessions b.1(a) Replace mainframes and install campus-wide connectivity by 1988.HASKELL	HASKELL
3. <u>Administrative Improvement</u>		
a. Improvement of Facilities by Renovation, Construction and Beautification.	a.1 Completion of 10 year facilities master plan a.1(a) By FY92, design 10 year Educational Plan with Facilities Master Plan.	HASKELL
b. Improve financial reporting system	b.1 Computerize status of obligation reports b.1(a) By 1988 have monthly status of obligation reports for each division of school.	HASKELL
c. Improve communication link with Central Office.	c.1 Number of complaints concerning lack of responses to requests for information. c.1(a) To cut number of complaints to 1 per PS by 1992.	HASKELL
d. Increase training & T/A to Administrators of	d.1 # of training and T/A sessions. Number and diversity of topics and issues addressed. d.1(a) Beginning 1991, to expand the training and T/A sessions to include other topics besides ICS, rules and regulations, etc. Include in budget-travel to attend quarterly ABEC meetings.	HASKELL
e. Increase Financial Base of Post Secondary Education	e.1 Increase funding through Haskell Foundation e.1(a) Develop 1 million dollar endowment fund by 1995.	HASKELL

* Teleteaching Implemented FY 1990
** 1/2 TCOOs monitored each year
T/A given during monitoring session

November 8, 1980

OFFICE OF INDIAN EDUCATION PROGRAMS - DATA COLLECTION MATRIX

INDICATORS/ DATA	COLLECTION TIMELINES	DATA EXISTS YES/NO	DATA SOURCE	DATA TO BE REPORTED BY			
				GRADE LEVEL	SCHOOL PROJECT	LINE OFFICE	SYSTEM WIDE
I. Early Childhood							
A. Student/Parent Development <u>0-2 Ages (Home Based)</u>							
1. Increase parents' knowledge of effective child rearing skills.	yearly	X	Project	X	X	X	X
2. Provide screening in areas of motor, language, social, emotional, hearing and vision development and refer if potential problem is detected.	yearly	X	Project	X	X	X	X
	yearly	X	Project	X	X	X	X
	yearly	X	Project	X	X	X	X
3. Increase level of cognitive, affective and psycho-motor stimulation received by the child.	yearly	X	Project	X	X	X	X
4. Improve the methods by which the child's health/nutrition needs are met.	yearly	X	Project	X	X	X	X
5. Determine language dominance of homes	yearly	X	Project	X	X	X	X
B. <u>3-5 Ages (Center Based)</u>							
1. Increase formal education of parent enrolled in High School/GED or Community College Courses	yearly	X	Project	X	X	X	X
2. Increase parents' knowledge of parenting skills and child development through formal course work.	yearly	X	Project	X	X	X	X
	yearly	X	Project	X	X	X	X
3. Increase child's level of functioning in social, cognitive, affective and motor activities.	yearly	X	Project	X	X	X	X

3-15

205

206

1

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November 8, 1990

INDICATORS/ DATA	COLLECTION TIMELINES	DATA EXISTS YES/NO	DATA SOURCE	DATA TO BE REPORTED BY		
				GRADE LEVEL	SCHOOL	SYSTEM OFFICE WIDE
4. Maintain consistent rates of attendance.						
5. Determine English language fluency of students						
C. <u>Learning Center Improvement</u>						
1. Provide appropriate curriculum.	yearly	X	Project	X	X	X
2. Provide appropriate number of instructional staff.	yearly	X	Project	X	X	X
3. Provide qualified staff.	yearly	X	Project	X	X	X
4. Provide appropriate health/quality environment at learning center.	yearly	X	Project	X	X	X
5. Provide appropriate transportation.	yearly	X	Project	X	X	X
D. <u>Administrative Improvements</u>						
1. Tracking of children from EODP through Elementary School.	yearly	X	Project	X	X	X
2. Evaluate staff performance for Home Instructors and Learning Center Staff.	yearly	X	Project	X	X	X
3. Evaluate efforts of Home and Center Based Programs.	yearly	X	Project	X	X	X
4. Provide on-going training and technical assistance for parents, home instructors and learning center staff.	yearly	X	Project	X	X	X
5. Disseminate EODP results/achievements	yearly	X	Project	X	X	X

207

203

November 4, 1990

INDICATORS/ DATA	COLLECTION TIMELINES	DATA EXISTS Y/N/NO	DATA SOURCE	DATA TO BE REPORTED BY			
				GRADE LEVEL	SCHOOL	LINE OFFICE	SYSTEM WIDE
II. Elementary & Secondary							
A. Student Improvement							
1. Patsy's achievement score (year 2000 goal)	yearly	X	School	X	X	X	X
2. Document and improve performance on performance based tests (States are moving toward this form of assessment)	yearly	X	School	X	X	X	X
3. Improve attendance rates	yearly	X	School	X	X	X	X
4. Reduce dropout rates/improve school retention	yearly	X	School	X	X	X	X
B. Learning Center Improvement							
1. To train school staff in a school improvement process (Effective School Program)	yearly	X	OIEP	X	X	X	X
2. To monitor all schools for standards compliance and evaluate them for quality. (Monitoring/Evaluation)	yearly	X	School	X	X	X	X
3. Schools will share programs that work (Sharing Excellence Network)	yearly	X	Live Office	X	X	X	X
	yearly	X	School	X			X
	yearly	X	OIEP	X	X	X	X
	yearly	X	OIEP	X	X	X	X
	yearly	X	School	X	X	X	X
	yearly	X	OIEP	X	X	X	X
	yearly	X	OIEP	X	X	X	X

November 6, 1990

DATA TO BE REPORTED BY
GRADE PROJECT SYSTEM
LEVEL SCHOOL OFFICE WIDE

DATA
EXISTS
YES/NO

COLLECTION
TIMELINES

INDICATORS/
DATA

INDICATORS/ DATA	COLLECTION TIMELINES	DATA EXISTS YES/NO	DATA SOURCE	GRADE LEVEL	PROJECT SCHOOL	SYSTEM OFFICE WIDE
4. Schools with good programs are recognized and paired with other schools to assist them. (Exemplary Schools)	yearly	X	OIEP			X
5. Based upon documented needs assessment and schools improvement plans, schools will apply for funds for specific school improvement activities (Education 2000 Program)	yearly	X	OIEP			X
6. Schools plan and implement school improvement efforts related to Chapter 1 (Chapter 1 School Improvement Programs)	yearly	X	OIEP			X
7. Train teachers and counselors on recent research on teaching and learning and on methods to improve the effective domain (Teacher/Counselor Training)	yearly	X	OIEP			X
8. Drug Free Schools Program/Safe School Environment	yearly	X	School			X
9. Administrative Improvement!	yearly	X	School			X
1. Decrease teacher turnover rate	yearly	X	School			X
2. Evaluating Staff performance	yearly	X	School			X
3. Increase principals' time as instructional leader	yearly	X	School			X
a. # of schools in programs	yearly	X	OIEP			X
b. Report of improvements made at other schools	yearly	X	OIEP			X
a. # of schools who apply for funds	yearly	X	OIEP			X
b. # of schools funded	yearly	X	OIEP			X
c. Report of results of school improvement	yearly	X	OIEP			X
a. % of schools who apply for funds	yearly	X	OIEP			X
b. % of schools funded	yearly	X	School			X
c. Chapter 1 evaluation	yearly	X	OIEP			X
a. % of teachers trained	yearly	X	School			X
a. Reduction of incidents reported	yearly	X	School			X
b. # of counselors meeting certification	yearly	X	School			X
c. # schools established drug free zones	yearly	X	School			X
a. Decrease in resignations	yearly	X	School			X
b. # of teacher vacancies	yearly	X	School			X
c. # of Indian teachers	yearly	X	School			X
a. Implementation of Effective Schools staff Evaluation system in % of schools	yearly	X	School			X
a. Reduce paperwork study	yearly	X	School			X
b. Administrative changes made	yearly	X	School			X

November 6, 1980

INDICATORS/ DATA	COLLECTION TIMELINE	DATA EXISTS YES/NO	DATA SOURCE	DATA TO BE REPORTED BY		
				GRADE LEVEL	SCHOOL	SYSTEM OFFICE WIDE
4. Improve procurement process						
a. # of requisitions submitted compared to # of purchase orders processed	yearly	X	School		X	X
5. Reduce payroll processing complaint incidents						
a. # of complaint incidents	yearly	X	Admin. SC		X	X
6. Improve timeliness for preventive maintenance						
a. Facility Mgmt. Annual Report	yearly	X	Facility Mgmt.		X	X
7. Improve aesthetics of physical plants exteriors						
a. Comparisons leave on-site	yearly	X	Facility Mgmt.		X	X
8. Establish more accurate financial reporting						
a. Compare with cult accounts	yearly	X	School		X	X
9. Establish Student enrollment/tracking system						
a. % of schools with operating student enrollment/tracking system	yearly	X	School		X	X
10. Improve screening process for sensitive positions						
a. % of OEP employees screened	yearly	X	School		X	X
III. Post Secondary						
A. ADULT EDUCATION PROGRAM						
1. <u>Student Improvement</u>						
a. Increase the numbers of student attending Post Secondary Schools	yearly	X	OEP/Tribal Contractors (TC)		X	X
b. Increase Completion Rate	yearly	X	OEP/TC		X	X
c. Training/Retraining Programs	yearly	X	OEP/TC		X	X
d. Improve student retention	yearly	X	OEP/TC		X	X
e. Proper preparation for career	yearly	X	OEP/TC		X	X
f. Monitor Student Progress	yearly	X	OEP/TC		X	X
2. <u>School Improvement</u>						
a. Improvement of Program Services	yearly	X	OEP/TC		X	X
b. Teleaching Projects	N/A	X	OEP		X	X

213

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214

November 8, 1990

INDICATORS/ DATA	COLLECTION TIMELINE	DATA EXISTS YES/NO	DATA SOURCE	DATA TO BE PROVIDED BY			
				GRADE LEVEL	SCHOOL	OFFICE	SYSTEM WIDE
3. <u>Administrative Improvement</u>							
a. Improvement of Facilities by Renovation, Construction and Beautification.	yearly	X	OEIP		X	X	X
b. Improve financial reporting system	monthly	X	OEIP		X	X	X
	monthly	X	OEIP		X	X	X
	Continuous	X	OEIP		X	X	X
c. Improve communication link with Central Office	Quarterly	X	OEIP		X	X	X
d. Increase training & T/A to Administrators of	Quarterly	X	OEIP		X	X	X
	yearly	X	OEIP		X	X	X
e. Increase Financial Base of Adult Education Programs							
B. <u>HIGHER EDUCATION GRANT PROGRAM</u>							
1. <u>Student Improvement</u>							
a. Increase the numbers of student attending Post Secondary Schools	Annually	X	OEIP/TC	X	X	X	X
b. Increase Completion Rate	Annually	X	OEIP/TC	X	X	X	X
c. Training/Retraining Programs	Annually	X	OEIP/TC	X	X	X	X
d. Improve student retention	Annually	X	OEIP/TC	X	X	X	X
e. Proper preparation for career	Annually	X	OEIP/TC		X	X	X
f. Monitor Student Progress	Annually	X	OEIP/TC		X	X	X
2. <u>School Improvement</u>							
a. Program Improvement	1/3 of projects Annually	X	OEIP-SMA		X	X	X
3. <u>Administrative Improvement</u>							
a. Improve financial reporting system	monthly	X	OEIP/TC		X	X	X
	monthly	X	OEIP/TC		X	X	X

215

216

November 6, 1980

INDICATORS/ DATA	COLLECTION TIMELINES	DATA EXISTS YES/NO	DATA SOURCE	DATA TO BE REPORTED BY		
				GRADE LEVEL	SCHOOL OFFICE	SYSTEM WIDE

b. Improve communication link with Central Office	1. Dissemination Assessment	Continuous	X	OIEP	X	X
c. Increase training & T/A to Administrators of	1. # of hrs. of training and T/A	Quarterly	X	OIEP	X	X
	2. # of Seminars and Workshops	Quarterly	X	OIEP	X	X
d. Increase Financial Base of Higher Education Grant Program	1. # of students served and funded, # funded	Annually	X	OIEP/TC	X	X

C. THERALLY CONTROLLED COMMUNITY COLLEGES

1. <u>Student Improvement</u>						
a. Increase the numbers of student attending Tribally Controlled Community Colleges (TCCCd)	1. Enrollment Numbers	yearly	X	TCCC/OIEP	X	X
b. Increase Completion Rate	1. Graduates	yearly	X	TCCC	X	X
c. Training/Retraining Programs	1. Enrollment	yearly	X	TCCC	X	X
d. Improve student retention	1. What % who start, finish - % of dropouts	yearly	X	TCCC	X	X
e. Proper preparation for career	1. # of students served	yearly	X	TCCC	X	X
	2. # of students counseled	yearly	X	TCCC	X	X
f. Monitor Student Progress	1. Develop student data base	yearly	X	TCCC	X	X
2. <u>School Improvement</u>						
a. Improvement of Library Services	1. Evaluation/Monitoring	yearly	X	TCCC	X	X
b. Teleteaching Projects	1. Expand to all postsecondary project	yearly*	X	TCCC	X	X
3. <u>Administrative Improvement</u>						
a. Improvement of Facilities by Renovation, Construction and Beautification.	1. # needing renovation, # backlogged, and # renovated	yearly	X	TCCC-OCCM	X	X
b. Improve fiscal reporting system	1. # of financial reports received on time	monthly	X	TCCC-OIEP	X	X
	2. % of budget obligated	monthly	X	TCCC-OIEP	X	X
c. Improve communication link with Central Office	1. Dissemination Assessment	yearly	X	TCCC	X	X

November 6, 1980

INDICATORS/ DATA	COLLECTION TIMELINES	DATA EXISTS YES/NO	DATA SOURCE	DATA TO BE REPORTED BY		
				GRADE LEVEL	PROJECT SCHOOL	SYSTEM OFFICE WIDE
d. Increase training & T/A to Administrators of	1. # of hrs. of training and T/A	X	TOCC	X	X	X
	2. # of Seminars and Workshops	X	TOCC	X	X	X
e. Increase Financial Base of Post Secondary Education	1. # of students served and funded, # funded	X	TOCC	X	X	X
D. SOUTHWESTERN INDIAN POLYTECHNIC INSTITUTE (SPI)						
1. <u>Student Improvement</u>						
a. Increase Student Enrollment	1. Enrollment #/s	X	School	X	X	
b. Increase Student Completions	1. Graduates	X	School	X	X	
c. Staff Training/Retaining	1. Enrollment	X	School	X	X	
d. Improve Student Retention	1. Start/Finish #. % of drop-outs	X	School	X	X	
e. Student Career Orientation/Preparation	1. # served	X	School	X	X	
f. Monitor Student Progress (grades, absenteeism, personal problems, etc.)	1. Develop? Student data base	X	School	X	X	
2. <u>School Improvement</u>						
a. Improvement of Library Services	1. Evaluation/Monitoring	X	School	X	X	
b. Teleseeding Projects	1. Develop entire project	X	School	X	X	
c. Vocational Rehabilitation	1. Implement project	X	School	X	X	
3. <u>Administrative Improvement</u>						
a. Improvement of SPI Facilities by Renovation, Construction and Beautification	1. Implement SPI FMR	X	School	X	X	
b. Improve Financial Reporting System	1. # of financial reports received on time	X	School	X	X	
	2. % of budget obligated	X	School	X	X	
c. Improve SPI Communications Link with Central Office	1. Dissemination/Assessment	X	School	X	X	
d. Increase Training and T/A to SPI Administrators of Postsecondary Training Departments/Programs plus T/A	1. # of hours of training offered, plus T/A	X	School	X	X	
e. Increase Financial Base of Postsecondary Education Programs at SPI	1. Dollar increase in foundations account	X	School	X	X	

November 8, 1980

INDICATORS/ DATA	COLLECTION TIMELINES	DATA EXISTS YES/NO	DATA SOURCE	DATA TO BE REPORTED BY			
				GRADE LEVEL	SCHOOL	PROJECT LINE	SYSTEM OFFICE WIDE
E. HASKELL INDIAN JUNIOR COLLEGE (HASKELL)							
1. <u>Student Improvement</u>							
a. Increase the numbers of student attending 4-year colleges	yearly	X	School	X	X		X
b. Increase Completion Rate	yearly	X	School	X	X		X
c. Improve and expand programs	yearly	X	School	X	X		X
d. Improve student retention	yearly	X	School	X	X		X
e. Proper preparation for career	yearly	X	School	X	X		X
f. Monitor Student Programs	yearly	X	School	X	X		X
2. <u>School Improvement</u>							
a. Improvement of Library Services	yearly	X	School		X		X
b. Improve computer environment	yearly*	X	School	X	X		X
3. <u>Administrative Improvement</u>							
a. Improvement of Facilities by Renovation, Construction and Beautification.	yearly	X	School		X		X
b. Improve financial reporting system	monthly	X	School		X		X
c. Improve communication link with Central Office	monthly	X	School		X		X
d. Increase training & T/A to Administrators of	yearly	X	School		X		X
e. Increase Financial Base of Post Secondary Education	2 years**	X	School		X		X
	2 years**	X	School		X		X
	yearly	X	School		X		X

* Teleaching Implemented FY 1980

** 12 TCOOs monitored each year
T/A given during monitoring session

November 8, 1990

EXHIBIT 3-D

EARLY CHILDHOOD EDUCATION ACTION PLAN

<u>ACTIVITIES/TASKS</u>	<u>RESPONSIBLE OFFICE</u>	<u>TARGET COMPLETION DATES</u>
1. Approve Project Applications	OIEP - E/S	Annually - FY 91 thru FY 99
2. Implement Projects at Community Level	Applicant	Annually - FY 91 thru FY 99
3. Annual evaluation of projects with statistical data on indicators 1.1 thru 18.1	OIEP - E/S - Contractor	Annually - FY 91 thru FY 99
4. Formative evaluation of total EC program and progress	OIEP - POE - E/S - Contractor	FY 92, FY 94, FY 96, FY 98
5. Disseminate ECDP results/achievements thru OIEP newsletter	OIEP - E/S	Annually - FY 91 thru FY 99
6. National ECDP Training for project coordinators	OIEP - E/S	Annually - FY 91 thru FY 99
7. Establishment of data collection system/procedures for all indicators 1.1 thru 18.1	OIEP - MIS	FY 91

3-24

223

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1

224

November 6, 1990

ELEMENTARY/SECONDARY ACTION PLAN

<u>ACTIVITIES/TASKS</u>	<u>RESPONSIBLE OFFICE</u>	<u>TARGET COMPLETION DATES</u>
1. Collect, analyze, and disseminate student achievement data.	ONEP - POE/ES	Annually
2. Establish reporting process for attendance and dropout rates.	ONEP - POE/ES/NMS	Annually - Beginning in FY 1991
3. Establish training program for teachers/administrators	ONEP - ES	FY 1991 - 1999
4. Monitor schools for compliance to establish standards and analyze data for standards quality.	ONEP - POE	FY 1991 - 1999
5. Evaluation of program adoption programs.	ONEP - POE/ES	FY 1990/1991
6. Evaluation of school improvement process at schools in regular program and Chapter I.	ONEP - ES	FY 1990 - 1999
7. Evaluation of staff development program	ONEP - ES	FY 1991 - 1999
8. Program evaluation of drug free schools program, including establishment of data collection procedures	ONEP - ES/NMS	Annually - FY 1991 - 1999
9. Dissemination of results/achievements through education conferences and newsletters.	ONEP - ES	FY 1991 - 1999

225

226

November 8, 1990

POST SECONDARY EDUCATION ACTION PLAN

<u>ACTIVITIES/TASKS</u>	<u>RESPONSIBLE OFFICE</u>	<u>TARGET COMPLETION DATES</u>
1. Collect, analyze and disseminate drop-out data	MIS-PS-TCCC	Annually - FY 1991 thru 1999
2. Collect, analyze and disseminate completion data	MIS-PS-TCCC	Annually - FY 1991 thru 1999
3. Monitor programs for regulatory compliance	PS-TCCC	Annually - FY 1991 thru 1999
4. Provide program training and T/A for programs	PS-TCCC	Annually - FY 1991 thru 1999
5. Establish self training and development program	OPER-PS-TCCC	Annually - FY 1991 thru 1999
6. Analyze Annual Report data	MIS-PS	Annually - FY 1991 thru 1999
7. Provide T/A for Accreditation of colleges not accredited	OPER-PS-TCCC	Annually - FY 1991 thru 1999
8. Assist colleges to exceed minimum accreditation standards	OPER-PS-TCCC	Annually - FY 1991 thru 1999
9. Establish Career Guidance Program	OPER-PS-TCCC	Annually - FY 1991 thru 1999
10. Identify exemplary programs for replication at other locations	TCCC-PS-MIS	Estab. FY 92 then Annually FY 93-99
11. Monitor facilities re: OSHA Standards	TCCC-OCM-PS	Annually - FY 1991 thru 1999
12. Plan, design, and implement data collection system for indicators	MIS-PS-TCCC	Annually - FY 1991 thru 1999

227

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228

November 8, 1990

HASKELL INDIAN JUNIOR COLLEGE (HASKELL) ACTION PLAN

ACTIVITIES/TASKS

RESPONSIBLE OFFICE

TARGET COMPLETION DATES

1. Collect, analyze and disseminate drop-out data
2. Collect, analyze and disseminate completion data
3. Monitor programs for regulatory compliance
4. Provide program training and T/A for programs
5. Establish staff training and development program
6. Analyze Annual Report data
7. Provide T/A for higher accreditation of college
8. Provide for college to exceed minimum accreditation standards
9. Establish Career Guidance Program
10. Identify exemplary programs for replication at other locations
11. Monitor facilities re: OSHA Standards
12. Plan, design, and implement data collection system for indicators

MIS-PS-HASKELL

Annually - FY 1991 thru 1999

MIS-PS-HASKELL

Annually - FY 1991 thru 1999

PS-HASKELL

Annually - FY 1991 thru 1999

PS-HASKELL

Annually - FY 1991 thru 1999

OPER-PS-HASKELL

Annually - FY 1991 thru 1999

MIS-PS

Annually - FY 1991 thru 1999

OPER-PS-HASKELL

Annually - FY 1991 thru 1999

OPER-PS-HASKELL

Annually - FY 1991 thru 1999

OPER-PS-HASKELL

Estab. FY 92 thru Annually FY 93-99

HASKELL-PS-MIS

Annually - FY 1991 thru 1999

HASKELL-OCM-PS

Annually - FY 1991 thru 1999

MIS-PS-HASKELL

Annually - FY 1991 thru 1999

November 6, 1990

SOUTHWESTERN INDIAN POLYTECHNIC INSTITUTE (SIPI) ACTION PLAN

<u>ACTIVITIES/TASKS</u>	<u>RESPONSIBLE OFFICE</u>	<u>TARGET COMPLETION DATES</u>
1. Collect, analyze and disseminate drop-out data	SIPI	Annually - FY 1991 thru 2000
2. Collect, analyze and disseminate completion data	SIPI	Annually - FY 1991 thru 2000
3. Monitor programs for regulatory compliance	SIPI	Annually - FY 1991 thru 2000
4. Provide program training and T/A for programs	SIPI	Annually - FY 1991 thru 2000
5. Establish staff training and development program	SIPI	Annually - FY 1991 thru 2000
6. Analyze Annual Report data	SIPI	Annually - FY 1991 thru 2000
7. Provide T/A for NCA's accreditation standards	SIPI	Annually - FY 1991 thru 2000
8. Assist SIPI Program Managers to exceed NCA's accreditation standards	SIPI	Annually - FY 1991 thru 2000
9. Reinforce existing SIPI career guidance program	SIPI	Annually - FY 1991 thru 2000
10. Identify effective programs for replication at other training locations	SIPI	Annually - FY 1991 thru 2000
11. Monitor SIPI facilities for compliance with OSHA Standards	SIPI	Annually - FY 1991 thru 2000
12. Plan, design, and implement an MIS/Data Collection System for monitoring performance	SIPI	Annual/y - FY 1991 thru 2000

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231

232

Consultation Item # 4

CONSULTATION ITEM/TOPIC:

Johnson-O'Malley Program - Student Eligibility requirements 25 CFR 273

POTENTIAL ISSUE OR CHANGE:

To revise student eligibility requirements by applying applicable provisions of P.L. 99-228.

REASON FOR PROPOSING ISSUE OR CHANGE:

To implement a September, 1990 decision of the U.S. District Court for the District of Nevada.

CURRENT OPTION(S) BEING CONSIDERED BY THE BUREAU:

To publish the attached revision in the Federal Register as a proposed amendment to 25 CFR 273.

BACKGROUND

In a September, 1990 decision, the United States District Court for the District of Nevada ruled that the definition of "Indian" contained in the Indian Self-Determination and Education Assistance Act, P.L. 93-638, 25 U.S.C § 450(b) (d) is applicable for Johnson O'Malley (JOM) program purposes.

Although citing the current requirements of 25 CFR § 273.12 with specific reference to the "1/4 or more degree Indian blood...", as being too restrictive, the court did not decide on that question.

However, in reviewing the decision of the court and the problems alleged by the plaintiffs in the matter, the Solicitor has advised that eligibility requirements of P.L. 99-228 are applicable for determining JOM student eligibility.

The Bureau is, therefore, proposing to amend § 273.12 - Eligible students, to incorporate requirements of the court decision and P.L. 99-228. The proposed changes are shown in the attached Exhibit 4-A on page 4-3.

The decision of the court is attached as Exhibit 4-B, page 4-4; and a memorandum of the Solicitor regarding the matter is attached as Exhibit 4-C, page 4-17.

EXHIBITS

EXHIBIT 4-A

Current

§ 273.12 Eligible Students

Indian Students, from age 3 years through grade(s) 12, except those who are enrolled in Bureau or sectarian operated schools, shall be eligible for benefits provided in this part if they are 1/4 or more degree Indian blood and recognized by the Secretary as being eligible for Bureau services. Priority shall be given to contracts (a) which would serve Indian students on or near reservations and (b) where a majority of such students will be members of the tribe(s) of such reservations as defined in § 273.2(o).

Proposed

§ 273.12 Eligible Students

(a) Benefits provided under this part are available to Indian students, from age 3 through grade 12, except those enrolled in Bureau or sectarian operated schools; and, who are members of, or at least a one fourth degree Indian blood descendent of a member of an Indian tribe which is eligible for the special programs and services provided by the United States through the Bureau of Indian Affairs to Indians because of their status as Indians.

(b) Priority in contracting shall be given to contracts (1) which would serve Indian students on or near the reservations and (2) where a majority of such students will be members of the tribe(s) of such reservations as defined in § 273.2(o).

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

NEVADA URBAN INDIANS, INC.,

Plaintiff,

CV-N-90-238 BRT

v.

UNITED STATES, DEPARTMENT OF THE
INTERIOR, BUREAU OF INDIAN AFFAIRS,
et al.,

Defendants.

ORDER GRANTING PRELIMINARY INJUNCTION

Plaintiff Nevada Urban Indians, Inc. (NUI) is a private non-profit corporation that provides educational services to Nevada Urban Indian children, principally under the Johnson-O'Malley Act (JOM). Contracts under the Act are voluntarily entered into at the request of an Indian tribe and are "for the purpose of financially assisting those efforts designed to meet the specialized and unique educational needs of eligible Indian students, including programs supplemental to the regular school program and school operational support..." 25 CFR § 273.1(a). Contractors under the Act are required to secure and maintain eligibility records to ensure that

1 the participating students are one quarter (1/4) or more degree
2 Indian blood and recognized by the Secretary of the Interior
3 (Secretary) as being eligible as set-forth in 25 GFR-§ 273.12.

4 According to the record, plaintiff uses the Washoe County
5 School District's official apportionment student count, counselor
6 reports, parent information, Title IV and Indian Health records to
7 arrive at the number of eligible Indian students. The school's
8 apportionment count, is derived from students voluntarily listing
9 their racial ethnic background. The Bureau of Indian Affairs (BIA)
10 is aware of plaintiff's counting methodology and has long recognized
11 plaintiff's inability to obtain tribal certification to prove blood
12 quantum. For example, a field trip report from the BIA's Western
13 Nevada Agency in April of 1986 explained to the Bureau's Program
14 Administrator that:

15 Although the one-quarter (1/4) eligibility is
16 specified by the Code of Federal Regulations,
17 the Bureau is not specific about what
18 constitutes certification (i.e. Indian Health
19 Records, Title IV, Bureau/Tribal Certification
20 and etc.) More direction is needed to identify
21 what documents must be on file to determine
22 certification of eligible students and uniform
23 procedures should be established to collect
24 student data for auditing purposes. . . . If
25 the Bureau determines that a Certificate of
26 Indian Blood must be on file for each eligible
27 student, Nevada Urban will be confronted with
28 an impossible task of providing the data. This
29 same problem will be encountered by a project
30 serving more than one tribe.

(Emphasis added).

31 The testimony and affidavit of Mr. Killian, Director of
32 Research and Development for Washoe County School District,
33 demonstrates that as late as February of 1990, representatives from

1 the BIA were still unable to make suggestions or offer solutions to
2 verify plaintiff's eligibility figures.

3 Pursuant to 25 C.F.R. § 273.26, an audit was conducted on
4 the plaintiff on February 8 and 9, 1990 to review the documents
5 collected pertaining to the eligibility of the students being served
6 under the contract. Plaintiff was notified by letter that the audit
7 had revealed a serious discrepancy between the number of students
8 certified as eligible by NUI and the number of students for whom
9 plaintiff possessed proper documentation to ensure the students'
10 eligibility. In March, defendants sent the notice to cure
11 plaintiff's default to an incorrect address. In May, defendants
12 again sent the notice of plaintiff's contract cancellation to the
13 wrong address.

14 On May 25, 1990, plaintiff filed a complaint seeking both
15 declaratory relief and "a Preliminary and Permanent Injunction
16 restraining the defendants from disallowing draw down of JOM
17 contract funds prior to the provision of required regulatory
18 procedures." Plaintiff then applied ex parte for a temporary
19 restraining order seeking to enjoin the termination of plaintiff's
20 Johnson-O'Malley contract. The application for a temporary
21 restraining order was denied and a preliminary injunction hearing
22 followed on July 17, 1990.

23 In the meantime, defendants filed a motion to dismiss
24 asserting that plaintiff is without standing to bring suit against
25 the United States. Defendants argue plaintiff cannot invoke the
26 waiver of sovereign immunity provided in section 702 of the

1 Administrative Procedure Act, 5 U.S.C. § 702, because plaintiff has
2 not exhausted administrative remedies.

3 I. EXHAUSTION OF ADMINISTRATIVE REMEDIES

4 Under the doctrine of exhaustion of administrative
5 remedies, "no one is entitled to judicial relief for a supposed or
6 threatened injury until the prescribed administrative remedy has
7 been exhausted." Myers v. Bethlehem Shipbuilding Co., 303 U.S. 41,
8 50-51, 58 S.Ct. 459, 463, 82 L.Ed.2d. 638 (1938). The basic purpose
9 of the doctrine of exhaustion of administrative remedies is to allow
10 an administrative agency to perform functions within its special
11 competence - to make a factual record, to apply its expertise and
12 to correct its own errors so as to moot judicial controversies.
13 Parisi v. Davidson, 405 U.S. 34, 37, 92 S.Ct. 815, 817, 31 L.Ed.2d
14 17 (1972); Marshall v. Burlington Northern Inc., 595 F.2d 511, 513
15 (9th Cir. 1979).

16 Although exhaustion of administrative remedies is
17 typically required as a condition for judicial review, the
18 requirement is not absolute. See, e.g., White Mountain Broadcasting
19 Co. v. FCC, 194 U.S. App.D.C. 355, 359, 598 F.2d 274, 278
20 (D.C.Cir.), cert. denied, 444 U.S. 963, 100 S.Ct. 449, 62 L.Ed.2d
21 375 (1979). Where the pursuit of administrative remedies does not
22 serve the purposes behind the exhaustion doctrine, the courts have
23 allowed a number of exceptions. Thus, exhaustion is not required
24 if administrative remedies are inadequate, not efficacious or where
25 exhaustion of administrative remedies will result in irreparable
26 injury. American Federation of Government Employees, Local 1663 v.

1 Dunn, 561 F.2d 1310, 1314 (9th Cir. 1977); Marshall v. Burlington
2 Northern, Inc., 595 F.2d 511, 513 (9th Cir. 1979). Exceptions are
3 also allowed where pursuit of administrative remedies would be a
4 futile gesture, White Mountain Apache Tribe v. Hodel, 840 F.2d 675
5 (9th Cir. 1988); Aleknagik Natives Ltd. v. Andrus, 648 F.2d 496 (9th
6 Cir. 1980); Pence v. Kleppe, 529 F.2d 135, 143 (9th Cir. 1976); or
7 where the litigant's need for judicial resolution outweighs the
8 agency's interests in having an opportunity to develop a factual
9 record and exercise its discretion and expertise. Morrison-Knudsen
10 Co., Inc. v. Chg Intern., Inc., 811 F.2d 1209, 1223 (9th Cir. 1987);
11 Montgomery v. Rumsfeld, 572 F.2d 250, 253-54 (9th Cir. 1978).

12 A number of considerations lead to the conclusion that
13 exhaustion of remedies in this case is not required. First, as
14 plaintiff correctly points out, administrative remedies are
15 considered inadequate if the appeals process is too time-consuming.
16 See e.g., Honig v. Doe, 484 U.S. 305, 108 S. Ct. 592, 98 L.Ed.2d 686
17 (1988). Because the plaintiff's counseling and education program is
18 ~~directly tied to the school year, which is upon us, it is clear the~~
19 lengthy administrative appeals process will not provide adequate
20 relief. Further, plaintiff and the Indian children served by
21 plaintiff, will suffer irreparable injury without prompt access to
22 the contract funds necessary for hiring or rehiring counselors and
23 staff. (Testimony and affidavit of Janice Freshe).

24 Second, exhaustion is not required where it is highly
25 unlikely that an agency will change its position, Atlantic Richfield
26 Co. v. U.S. Dept. of Energy, 769 F.2d 771 (D.C.Cir. 1984), or where

1 pursuit of administrative remedies is rendered futile by virtue of
2 a preannounced decision or established position by the Secretary.
3 White Mountain Apache Tribe v. Hodel, 840 F.2d 675 (9th Cir. 1988)
4 citing, Ringer v. Schweiker, 684 F.2d 643, 647 (9th Cir. 1982);
5 Aleknagik Natives, 648 F.2d at 500. Here plaintiff asserts the
6 Secretary's position on Indian student eligibility is too narrow,
7 restrictive and inconsistent with Congressional intent and the JOM
8 Act. The decision of the Secretary to require "1/4 or more degree
9 Indian blood and recognized by the Secretary as being eligible for
10 Bureau Services" has been promulgated in 25 C.F.R. § 273.12.

11 II. PRELIMINARY INJUNCTION.

12 A preliminary injunction should be granted if the moving
13 party meets its burden by demonstrating either a combination of
14 probable success on the merits and the possibility of irreparable
15 injury or that serious questions are raised and the balance of
16 hardships tips sharply in its favor. Vision Sports, Inc. v. Melville
17 Corp., 888 F.2d 609, 612 (9th Cir. 1989). The principles are
18 ~~extremes of a single continuum. Miss Universe, Inc. v. Flesher, 605~~
19 F.2d 1130, 1134 (9th Cir. 1979). The critical element is the
20 relative hardship to the parties. If the balance of hardships tips
21 decidedly toward the plaintiff, less likelihood of success on the
22 merits is required. Benda v. Grand Lodge of International
23 Association, 584 F.2d 308, 315 (9th Cir. 1978). Plaintiffs must
24 show an irreducible minimum of some chance of success on the merits.
25 Id.

26 A. The Balance of Hardships

1 In first evaluating the balance of hardships, plaintiff
2 has met the burden of proving that the balance tips in its favor.
3 Plaintiff was forced to lay off three employees, cancel counseling
4 services, and the JOM contract which provided funding was terminated
5 without proper notice. On the other hand, since there are
6 appropriated, unspent funds for educational contracts under the JOM,
7 hardship to defendants is minimal. The balance of hardships tips
8 sharply in plaintiff's favor.

9 B. Probability of Success on the Merits

10 Plaintiff contends first that defendants failed to follow
11 proper procedures by specifically failing to give notice before
12 cancelling the NUI contract. In response, the defendants state they
13 are uncertain whether plaintiff received notice of default but they
14 argue plaintiff could appeal under 25 C.F.R. § 273.73 which provides
15 any decision or action taken by a BIA official may be appealed
16 pursuant to 25 C.F.R. Part 2. Defendants fail to address any other
17 arguments. Because there is sufficient support for plaintiff's
18 contentions, we conclude the plaintiff has demonstrated a likelihood
19 of success on the merits.

20 Since 1975, the plaintiff has been a recipient of
21 educational contracts awarded by the BIA pursuant to the authority
22 of the Johnson O'Malley Act, 25 U.S.C. §§ 452-456. Section 452 of
23 the JOM provides:

24 The Secretary of the Interior is authorized, in
25 his discretion, to enter into a contract or
26 contracts with any State or Territory, or
political subdivision thereof, or with any State
university, college, or school. . . for the
education, medical attention, agricultural

1 assistance, and social welfare, including relief
2 of distress, of Indians in such State or
3 Territory . . . and to expend under such
4 contract or contracts, moneys appropriated by
5 Congress for the education, medical attention,
6 agricultural assistance, and social welfare,
7 including relief of distress, of Indians in such
8 State or Territory.

9 25 U.S.C. § 452.

10 Procedures for entering contracts, modifying contracts,
11 and terminating contracts as promulgated by the BIA are contained
12 in 25 C.F.R. §§ 273.1-.73. The specific procedures for cancellation
13 of Johnson O'Malley contracts is set out at 25 C.F.R. § 273.62 which
14 provides in pertinent part:

15 (b) Before cancelling the contract, the Bureau
16 will advise the contractor in writing of the
17 following:

18 (1) The reasons why the Bureau is considering
19 cancelling the contract.

20 (2) The contractor will be given an opportunity
21 to bring its work up to an acceptable level.

22 (c) If the contractor does not overcome the
23 deficiencies in its contract performance, the
24 Bureau shall cancel the contract for cause. The
25 Bureau will notify the contractor, in writing,
26 of the cancellation. The notice shall give the
reasons for the cancellation and the right of
the contractor to appeal under Subpart C of 43
CFR Part 4.

27 25 C.F.R. § 273.62.

28 Plaintiff's assertion that defendants have failed to
follow their own procedures which would allow plaintiff to file for
an administrative review is supported by defendants' Exhibits 9 and
10 which show the Notice to Cure and Notice of Cancellation were
sent return receipt requested to an incorrect address, thus never

1 reaching the NUI. Defendants admittedly cannot produce a signed
2 receipt. "Where rights of individuals are affected, it is incumbent
3 upon agencies to follow their own procedures." Morton v. Ruiz, 415
4 U.S. 199, 94 S. Ct. 1055, 39 L.Ed.2d 270 (1974). Further, there is
5 no merit to defendants' argument that plaintiff should have appealed
6 under the general provisions of 25 C.F.R. § 273.73 or 25 C.F.R. Part
7 2, when there is a specific administrative process for the
8 cancellation of a contract under 25 C.F.R. § 273.62 leading to a
9 right to appeal under Subpart C of 43 C.F.R. Part 4. There is,
10 therefore, a substantial probability that plaintiff will prevail on
11 the merits of this issue.

12 Plaintiff also asserts the Secretary's definition of
13 "Indian" as contained in the federal regulation is too narrow,
14 restrictive and inconsistent with Congressional intent and the JOM
15 Act. Eligible Indian students are defined in the regulation
16 implementing the JOM in 25 C.F.R. § 273.12 as:

17 Indian students, from age 3 years through
18 grade(s) 12 except those who are enrolled in
19 Bureau or sectarian operated schools, shall be
20 eligible for benefits provided by a contract
pursuant to this part if they are 1/4 or more
degree Indian blood and recognized by the
Secretary as being eligible for Bureau services.

21 . . .

22 25 C.F.R. § 273.12.

23 The contract between the BIA and NUI attached as an
24 exhibit to defendants' brief is a bureaucratic mishmash of clauses
25 and sections most of which have little, if any, relevancy to
26 Johnson-O'Malley Act services for eligible Indians. One provision
of the contract, however, under section 1452.204.71 "Indian

1 Preference - Department of the Interior (April 1984)" relating to
2 Indian preference in subcontracting, defines an Indian, subsection
3 (e)(1) as: "a person who is a member of an Indian Tribe. If the
4 Contractor has reason to doubt that a person seeking employment
5 preference is an Indian, the Contractor shall grant the preference
6 but shall require the individual within thirty (3) days to provide
7 evidence from the Tribe concerned that the person is a member of the
8 Tribe."

9 Earlier in the contract (Section C, subsection B
10 "Statement of Work"), it is provided:

11 The Contractor shall provide all qualified
12 personnel, materials, equipment, supplies,
13 transportation, facilities and services required
14 to administer the Johnson-O'Malley Program.

14 1. The Contractor shall provide
15 educational opportunities for approximately 780
16 eligible Indian children attending schools on
17 or near the Nevada Urban Indians, Inc., in
18 accordance with the approved Johnson O'Malley
19 Educational Plan. (See Attachment B - 'JOM
20 Education Plan').

18 2. The Contractor shall identify Indian
19 children for participation in the program.
20 Final eligibility determination shall be made
21 by the local Indian Education Committee in
22 accordance with 25 CFR Part 273, by reference
23 and the list shall be incorporated by reference
24 in this contract.

22 3. The Contractor shall encourage regular
23 attendance of Indian children in public schools
24 in accordance with the laws of the State and
25 regulations promulgated by the Secretary of the
26 Interior.

25 The foregoing applies specifically to the Johnson-O'Malley
26 services and identifies eligible Indian students by reference to 25
C.F.R. Part 273.

1 By letter dated March 18, 1986, to Nevada Urban Indians,
2 Inc. from the Area Education Program Administrator, the requirement
3 for identification of eligible Indian students was stated to be:
4 "We will need to see a certification signed by a bureau employee or
5 a tribal official stating that the student is 1/4 degree of Indian."
6 At the hearing the attorney for defendants stated that this
7 continues to be the requirement of the Secretary of Interior. The
8 court's problem, then, will be to determine whether such a
9 requirement is defensible, or is arbitrary and unreasonable under
10 the facts established by the evidence.

11 The JOM Act language authorizing appropriations for
12 education assistance is simply directed to "Indians" and the Act
13 defines Indian as "a person who is a member of an Indian tribe."
14 25 U.S.C. §§ 452, 450b. This definition was not included in the
15 Johnson-O'Malley Act as originally enacted but was added by Congress
16 when it enacted the Indian Self-Determination and Education
17 Assistance Act (25 U.S.C. 450 et seq.) in 1974. The legislative
18 history of this statute (P.L. 93-638; 1974 U.S. Code Cong. & Adm.
19 News, 1775) leaves little room to doubt that it was intended to and
20 does apply to the educational assistance program of Johnson-O'Malley
21 and so, for the first time, gives a Congressional definition of an
22 "Indian." Any discretion which the Secretary may have enjoyed was
23 eliminated and proof of membership in an Indian Tribe has been
24 required since 1974.

25 As pointed out earlier in this order, certification of
26 membership in an Indian Tribe has been impossible to obtain. None

1 of the participants have been able to conceive a solution. The law
2 and regulations are out-of-step with urban Indian society. Many
3 persons of Indian ancestry, eligible by blood quantum, no longer
4 retain any Tribal relationship or membership. They, are,
5 nevertheless, emancipated urban citizens of Indian ancestry whom the
6 Johnson-O'Malley Act, as supplemented by the Indian Self-
7 Determination and Education Assistance Act, intended to succor and
8 support. We seriously doubt whether Congress intended such benefits
9 to be limited to persons who are members of an Indian Tribe,
10 certified to be such by the BIA or a Tribe. This is a problem which
11 requires thorough consideration and reconsideration by the Bureau
12 of Indian Affairs, The Secretary of Interior and the Congress of the
13 United States. This plaintiff, NUI, was denied the opportunity to
14 obtain such a review by reason of the failure to send the notice to
15 cure and the notice of cancellation to the right address. These
16 administrative errors deprived plaintiff of a substantial right to
17 timely administrative review and justify injunctive relief pending
18 such review.

19 At the outset, the problem needs the expertise of the BIA
20 and the Secretary of Interior respecting the appropriate
21 interpretation of the acts of Congress and the regulations. When
22 25 U.S.C. § 450(b) defines an Indian as a "person who is a member
23 of an Indian Tribe" should this necessarily be interpreted to
24 identify only enrolled members? It is only such members whom the
25 Tribe would be expected to certify as members. Is it not a
26 reasonable interpretation of this statute that a person of 1/4

Indian ancestry whose ancestor belonged to a specific Tribe is a member of that Tribe?

Accordingly,

IT HEREBY IS ORDERED that defendants are enjoined and restrained from cancelling plaintiff's contract under the Johnson-O'Malley Act and from withholding payments to plaintiff for services to be rendered under the existing Johnson-O'Malley contract until correct administrative procedures have been followed so that a thorough review of these problems may be had in the upper echelons of government to the end that a solution may be found to attain the purposes and objectives articulated in the legislation in question.

DATED September 12, 1990.


UNITED STATES DISTRICT JUDGE



United States Department of the Interior

OFFICE OF THE SOLICITOR
Washington, D.C. 20240



BIA.IA.0359

MAY 3 1991

Memorandum

To: Director, Office of Indian Education Programs, BIA
From: Acting Associate Solicitor, Division of Indian Affairs
Subject: Definition of "Indian" for Johnson-O'Malley Act Purposes

Following the September 12, 1990 decision in Nevada Urban Indians, Inc., v. United States, CV-N-90-238 BRT, United States District Court for the District of Nevada, meetings were held among representatives of the Office of Indian Education Programs (OIEP) and the Solicitor's Office. The purpose of those meetings was to discuss what definition of "Indian" for Johnson-O'Malley Act, (JOM) 25 U.S.C. §§ 452-457, purposes is possible in light of the September 12 opinion.

On September 12, 1990, Judge Bruce Thompson ruled that the definition of "Indian" for JOM purposes is the definition of "Indian" contained in the Indian Self-Determination and Education Assistance Act, Pub. L. 93-638, 25 U.S.C. § 450b (d). That definition reads: "'Indian' means a person who is a member of an Indian tribe. . . ."

Although Judge Thompson cites the requirement in 25 CFR § 273.12 for "1/4 or more degree Indian blood and recognized by the Secretary as being eligible for Bureau services" as one alleged by the plaintiffs in Nevada Urban Indians, Inc., to be too restrictive, the court does not decide that question. Instead, having come to the conclusion that the Pub. L. 93-6 definition is applicable to JOM, Judge Thompson questions whether it serves intended JOM purposes.

In this connection, as part of his order granting a preliminary injunction, Judge Thompson directed that a thorough review of these problems be had in the upper echelons of government to the end that a solution may be found to attain the purposes and objectives articulated in JOM. P. 13 of Order Granting Preliminary Injunction.

As part of this review, we have been requested to provide you our opinion on whether a blood quantum can be properly a part of the definition of "Indian" for JOM programs. For the reasons set out below, we have come to the conclusion that the blood quantum provision in Pub. L. 99-228, December 28, 1985, is applicable in determining JOM eligibility.

We start with Judge Thompson's holding that the Pub. L. 93-638 definition of "Indian" applies when determining JOM eligibility, a determination which we believe is correct.¹ In so making tribal membership the requirement for JOM eligibility, there is no indication that Congress gave authority to Federal officials to define what shall constitute tribal membership for JOM purposes. To find such a grant of authority, which would be in derogation of the basic right of an Indian tribe to determine its own membership, would require clear and unequivocal language in the legislation setting out the authority. There is no such language in Pub. L. 93-638; indeed, there is not even any indication there that Congress thought about granting such authority. However, whether Congress has provided for an Indian blood quantum with respect to JOM eligibility is another matter.

The language in 25 CFR § 273.12 reading "1/4 or more degree Indian blood and recognized by the Secretary as being eligible for Bureau services" was apparently included in the JOM regulations because² of BIA's conclusion that 25 U.S.C. § 297 was applicable to JOM.² Section 297, which was repealed by Pub. L. 99-228, read:

No appropriation, except appropriations made pursuant to treaties, shall be used to educate children of less than one-fourth Indian blood whose parents are citizens of the United States and of the State wherein they live and where there are adequate free school facilities provided.

Pub. L. 99-228 in repealing 25 U.S.C. § 297 made the provision in 25 CFR 273.12 reading, "1/4 or more degree Indian blood and recognized by the Secretary as being eligible for Bureau services", unauthorized and so ineffective.³ See Zarr v. Barlow,

¹ The current regulations for education contracts under JOM set out the Pub. L. 93-638 definition for "Indian" as the definition for "Indian" for JOM. See 25 CFR § 273.1 (j): "'Indian' means a person who is a member of an Indian tribe."

² In S. Rep. No. 99-100, 99th Cong. 1st Session 3 (1985) reprinted in 1985 U.S. Code Cong. & Admin. News 2673-74, it is stated "the BIA asserts that the 1918 law [25 U.S.C. § 297] is applicable to JOM, which was passed in 1934. . ."

³ As Pub. L. 99-228 on December 28, 1985 repealed the 1/4 Indian

800 F.2d 1484 (9th Cir. 1986). Pub. L. 99-228 replaced the repealed Section 297 limitations with the following qualifications for Federal funding of an Indian student:

- (1) is a member of or at least a 1/4 degree Indian blood descendent of a member of an Indian tribe which is eligible for the special programs and services provided by the United States through the Bureau of Indian Affairs to Indians because of their status as Indians, and
- (2) resides on or near an Indian reservation or meets the criteria for attendance at a Bureau off-reservation boarding school.

In 1986, the Assistant Secretary - Indian Affairs advised all Area Directors, Area Education Programs Administrators, Agency Superintendents for Education, and Presidents, Post Secondary Schools of this definition in Pub. L. 99-228, and directed them to apply it to JOM eligibility as well as to eligibility for elementary and secondary programs in BIA funded schools.

We think this administrative determination concerning the scope of Pub. L. 99-228 is legally defensible. Congress was concerned that 25 U.S.C. § 297, which Pub. L. 99-228 repealed, not be used to deny BIA education services to Indian children who had been receiving them even though they were not 1/4 or more Indian blood. See S. Rep. No. 99-100, 99th Cong. 1st Sess.; reprinted in 1985, U.S. Code Cong. & Admin. News 2672. In the Senate consideration of S. 1621, which became Pub. L. 99-228, the bill was characterized as ". . . a bill to amend title 25 of the United States Code as it relates to Indian education programs." 131 Cong. Rec. 36465 (1985). Another characterization was ". . . S. 1621 which will define eligibility for BIA funded education programs." Id. Thus, the Assistant Secretary's determination that Pub. L. 99-228 applies to JOM as well as to attendance in BIA funded schools is in accord with such expressed Congressional intent for coverage of the Act. Furthermore, statutes dealing with Indian Affairs are construed liberally in favor of establishing Indian rights. See, in general, F. Cohen, Handbook of Federal Indian Law (1982 ed.) p. 224. In these

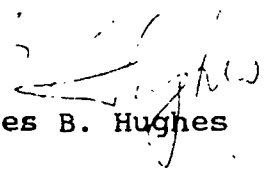
blood provision in 25 U.S.C. § 297, we do not believe the 1/4 Indian blood definition based on § 297 in 25 CFR 32.4(z) is applicable in spite of the enactment into law of part 32 of title 25 of the Code of Federal Regulations by Pub. L. 100-297, Title V, § 5106, 25 U.S.C. § 2003(a). This is thought so because Pub. L. 100-297 specifically provides: "To the extent that such provisions of part 32 do not conform with this Act or any statutory provision of law enacted before April 28, 1988, the provisions of this Act and the provisions of such other statutory law shall govern." 25 U.S.C. § 2003(a).

circumstances, we conclude the Assistant Secretary's 1986 determination is consistent with the law and that the eligibility standards in Pub. L. 99-228 can be interpreted to apply to JOM.

The Assistant Secretary's 1986 memorandum concluded with the statement: "Appropriate definitions for the individual programs will be published in the Federal Register." This has not been done for the JOM regulations, and there needs to be an amendment of 25 CFR § 273.12 to conform its eligibility language to that of Pub. L. 99-228. While, Pub. L. 99-228 is, in our view, self-implementing and does not require a regulation in order to give it effect, the regulation amendment is needed for clarity's sake to remove the repealed eligibility standard it now contains and to replace the repealed provision with the current standard.

Should you find the eligibility provisions in Pub. L. 99-228 not to be completely suitable for JOM, new legislation would be advisable to accomplish any desired change with certainty.

If you have further questions concerning this matter, please let me know.


Charles B. Hughes

cc: Field Solicitor, Phoenix, AZ, Att'n: Wayne Nordwall

TRIBAL CONSULTATION BOOKLET

U.S. DEPARTMENT OF THE INTERIOR



BUREAU OF INDIAN AFFAIRS

Office of
Indian Education
Programs

Branch of Planning

JANUARY, 1992

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TRIBAL CONSULTATION BOOKLET

TABLE OF CONTENTS

<u>Section</u>	<u>Page</u>
TRIBAL LEADER/SCHOOL BOARD LETTER	i-1
Attachment 1 - Federal Register Notice ...	i-3
2 - Tribal Leader Letter	i-6
CONSULTATION ITEM # 1 -- ACADEMIC AND DORMITORY STANDARDS	1-1
Exhibit 1-A	1-4
1-B	1-5
1-C	1-6
CONSULTATION ITEM # 2 -- JOHNSON-O'MALLEY	2-1
Exhibit 2-A	2-3
CONSULTATION ITEM # 3 -- INDIAN SCHOOL EQUALIZATION PROGRAM	3-1
Exhibit 3-A - Student Transportation	3-4
3-B - Exceptional Education	3-10
CONSULTATION ITEM # 4 -- INDIAN SCHOOL EQUALIZATION PROGRAM	4-1
Exhibit 4-A - Indian School Equalization Formula	4-3
CONSULTATION ITEM # 5 -- INDIAN AMERICA 2000 - A LONG RANGE EDUCATION PLAN	5-1
Exhibit 5-A	5-3
CONSULTATION ITEM # 6 -- ALTERNATIVES FOR THE DISTRIBUTION OF	6-1
ADULT EDUCATION AND HIGHER EDUCATION GRANT PROGRAM FUNDS	
Exhibit 6-A	6-3



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
WASHINGTON, D.C. 20245



IN REPLY REFER TO:

OCT - 7 1991

Dear Tribal Leader/School Board:

In January and July of 1991, the Bureau conducted consultation meetings across Indian Country as a continuation of those begun in 1990. Each meeting covered education program issues and modifications which were being considered; and, in all instances, produced many insightful and worthwhile comments.

In keeping with the commitment of this Office to conduct twice-a-year consultation meetings with the tribes, we are pleased to advise that the first meetings for 1992 will be held in January.

Dates, Sites and Contacts:

The locations, dates and local contacts for the meetings are provided in the draft copy of the Federal Register Notice of the meetings which is attached to this letter. Specific meeting locations can be obtained from the local individual contact identified in the Notice for each site.

Consultation Process:

On September 3, 1991, this office sent a "Dear Tribal Leader" letter to Education Line Officers for distribution to the tribes. The letter, a copy of which is attached, gave notice of revisions to the consultation process. The revisions are intended to improve the process by having regional teams, comprised of Bureau and Tribal representatives, plan and conduct the consultation meetings.

The process, as revised, is as follows:

1. A Steering Committee comprised of regional team members will select consultation items; prepare materials and produce a Tribal Consultation Booklet.
2. A Notice announcing consultation meetings will be published in the Federal Register.
3. The Tribal Consultation Booklet which includes consultation items will be mailed to Tribes and School Boards.
4. Eleven consultation meetings will be conducted by regional consultation teams on items included in the Booklet.

January, 1992 Consultation Booklet:

The Tribal Consultation Booklet for the January, 1992 meetings is enclosed. Information on the items/topics scheduled for consultation is included in the booklet, each arranged in a separate section. Each section begins with a summary of information pertinent to the item, including descriptions of the potential change being considered, the reason for proposing the change and option(s) being considered.

January, 1992 Consultation Items:

Six items/topics have been chosen for consultation and/or discussion. The items, not listed in any order of priority, are as follows:

1. Minimum Academic Standards for the Basic Education of Indian Children and National Criteria for Dormitory Situations - Proposed changes to 25 CFR 36.
2. Johnson-O'Malley - Proposed clarification to 25 CFR 273.
3. Indian School Equalization Program - Proposed changes to 25 CFR 39.
4. Indian School Equalization Program - Review of the Indian School Equalization Formula (ISEF), A Special Report.
5. Indian America 2000 - A Long Range Education Plan.
6. Alternatives for the Distribution of Adult Education and Higher Education Grant Program funds, A Discussion Paper.

Format for Comments and Responses:

Since comments from several hundred respondents are anticipated, it will be helpful if all comments and suggestions, written and oral, provide the following information:

1. Consultation Item/topic being addressed.
2. Name of the respondent; AND, Name & address of organization which respondent represents.

We encourage all tribes and Indian school boards to attend the meetings and provide oral and/or written comments on each item/topic.

Sincerely,



Director, Office of Indian Education
Programs

Attachments (2)

[4310-02]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Tribal Consultation on Indian Education Topics

AGENCY: Bureau of Indian Affairs, Interior

ACTION: Notice of tribal consultation meetings

SUMMARY: Notice is hereby given that the Bureau of Indian Affairs (BIA) will conduct follow-up consultation meetings to obtain written and oral comments concerning changes in Indian education programs currently under consideration by the BIA; and, other potential changes or issues. Changes currently under consideration and included in consultation booklets to be issued are as follows:

1. Minimum Academic Standards for the Basic Education of Indian Children and National Criteria for Dormitory Situations - Proposed changes to 25 CFR 36.
2. Johnson O'Malley - Proposed clarification to 25 CFR 273.
3. Indian School Equalization Program (ISEP) - Proposed changes to 25 CFR 39, including:
 - A. Student Transportation.
 - B. Exceptional Education.
4. Indian School Equalization Program (ISEP) - Review of the Indian School Equalization Formula (ISEF), A Special Report.
5. Indian America 2000 - A Proposed Long-Range Education Plan.
6. Alternatives for the Distribution of Adult Education and Higher Education Grant Program funds, A Discussion Paper.

DATE AND TIME: January 6, 8, 10, 1992. 9:00 A.M. until 6:00 P.M. (local time) at each site listed below.

MEETING DATES AND SITES:

January 6, 1992

<u>Locations</u>	<u>Local Contact</u>	<u>Telephone</u>
1. CALIFORNIA - Sacramento	Fayetta Babby	916/978-4680
2. NEW MEXICO - Albuquerque	Val Cordova	505/766-3034
3. OKLAHOMA - Oklahoma City	Jim Baker Sam Johnson	918/687-2460 405/247-6673
4. MINNESOTA - Minneapolis	Betty Walker	612/373-1090

January 8, 1992

1. OREGON - Portland	Marlin Reimer	503/230-5682
2. NEW MEXICO - Gallup	Larry Holman	505/786-6150
3. TENNESSEE - Nashville	Lena Sanders	703/235-3233
4. SOUTH DAKOTA - Aberdeen	Jim Davis	701/477-6471

January 10, 1992

1. ALASKA - Anchorage	Robert Pringle	907/271-4115
2. ARIZONA - Phoenix	Harvey Jacobs	602/562-3557
3. MONTANA - Billings	Larry Parker	406/657-6375

Written comments concerning the consultation meetings must be received no later than February 17, 1992, at the Bureau of Indian Affairs, Office of Indian Education Programs, Room 3511, MS 3530 MIB, 1849 C Street, NW., Washington, DC 20240, ATTN: Mr. Edward Parisian, Director, Office of Indian Education Programs.

FOR FURTHER INFORMATION CONTACT: Edward Parisian, Joe Christie or Jim Martin at the above address or call (202) 208-6123, 208-6175, or 208-3550.

SUPPLEMENTARY INFORMATION: The meetings are a follow-up to similar meetings conducted by the BIA in 1990 and January & July, 1991. The purpose of the consultation is to provide, as required by 25 U.S.C. 2010(b), Indian tribes, school boards, parents, Indian organizations and other interested parties with an opportunity to comment on potential changes or issues being considered by the BIA regarding Indian education programs. A consultation booklet for the January meetings is being distributed to Federally recognized Indian tribes and Bureau-funded schools. The booklets will also be available from local contact persons and at each meeting.

DATE

ASSISTANT SECRETARY - INDIAN AFFAIRS



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Washington, D.C. 20240



IN REPLY REFER TO:

Education
PO&E 532

03 SEP 1991

Dear Tribal Leader:

We would like to share with you the new method of planning and conducting the consultation process that this office has initiated. As you know, the Office of Indian Education Programs has made a commitment to conduct consultation meetings twice each year. These meetings are tentatively set to be held during January and July of each calendar year.

Based on tribal input and prior consultation comments, beginning with the January session of 1992, we have decided to establish a new method for carrying out the consultation process and new method of determining items for consultation. We have determined that the most effective method of consultation would be to establish four teams. Each of these teams will be given responsibility to consult in a particular region of the country. These regions are the Northwest comprised of Sacramento, Portland and Juneau BIA areas, the Southwest comprised of Albuquerque, Navajo and Phoenix BIA areas, the North comprised of Aberdeen, Billings and Minneapolis BIA areas, and the Central comprised of Anadarko, Muskogee and Eastern BIA areas.

Each team will consist of a tribal representative, an education line officer, and a member of the Central Office's Division of Planning, Oversight and Evaluation. Tribal representatives have been designated for each of the regions mentioned above for the January and July, 1992 meetings, however, there will be different tribal representatives for the 1993 meetings.

From these teams, a steering committee has been appointed which consists of two tribal representatives, two education line officers and members of the Division of Planning, Oversight and Evaluation. The Director, Office of Indian Education Programs will also be involved with the committee. The steering committee will select from items submitted by Central Office staff and the tribes, items mentioned in previous consultation meetings as well as suggestions submitted by field locations.

After thorough discussion by the steering committee, items selected for consultation will be placed in a Consultation Booklet (the Yellow Book) similar to that distributed for the January and July 1991 consultation meetings and will be provided to tribes, schools and other concerned individuals and groups approximately one month in advance of the planned dates of the meetings to assure that there is sufficient time for review prior to the actual meeting date.

We are in the process of developing a data base that will enable each consultation team to collect information during the meetings and afford them the opportunity to share some of the information collected during each consultation session. We anticipate that this collection can result in a printed document being available for distribution at the end of the session. While this process has not been perfected as of this writing, we believe that it will be an invaluable tool in providing the instant feedback that tribes have indicated they want.

We appreciate your continuing interest in Indian Education and look forward to seeing you in the upcoming sessions. Should you need further information regarding this process, please feel free to contact Ms. Dixie Owen, Chief, Branch of Planning, (202) 208-3550 at your convenience.

Sincerely,



Acting Director, Office of Indian
Education Programs

Consultation Item # 1

CONSULTATION ITEM/TOPIC:	Academic/Dormitory Standards
POTENTIAL ISSUE OR CHANGE:	To revise selected sections of the Academic Standards regarding Minimum Academic Programs/School Calendar; Secondary Instructional Programs; and Counseling Services. (25 CFR 36)
REASON FOR PROPOSING ISSUE OR CHANGE:	To incorporate recommendations of an audit by the Office of the Inspector General, a report by the National Commission on Testing, the Native American Languages Act and the President's America 2000 Strategy.
CURRENT OPTION(S) BEING CONSIDERED BY THE BUREAU:	To publish the attached revision(s) in the Federal Register as proposed amendments to 25 CFR 36 - Minimum Academic Standards for the Basic Education of Indian Children and National Criteria for Dormitory Situations.

BACKGROUND

The final audit report by the Office of the Inspector General, "Implementation of the Education Amendments of 1978, Bureau of Indian Affairs", dated July 5, 1991, states "the Amendments require the Bureau to establish standards for the basic education of Indian children which would account for factors such as academic needs, local cultural differences, type and level of language skills and geographical isolation."

A report of the National Commission on Testing and Public Policy states "The fundamental recommendation of the Commission is that current testing policies and practices be substantially restructured to help people develop their talents and become constructive citizens and to help institutions become more productive, accountable and just."

Title I of P.L. 101-477, the Native American Languages Act, states, "It is the policy of the United States to preserve, protect, and promote the rights and freedom of Native Americans to use, practice, and develop Native American languages."

The President's America 2000 - An Education Strategy calls for the use of new American Achievement Tests which will foster good teaching and learning as well as monitor student progress. It calls for students to be competent in more than one language. It calls for "breaking the mold", radically altering the customary modes of teaching and learning and redesigning human relationships and organizational structures of schools to produce student learning.

In view of the above factors, the Bureau is proposing modifications and additions to existing regulations in order to incorporate the various recommendations, statutory requirements and innovative strategies within those regulatory standards. The Bureau believes that its academic standards should be working guidelines requiring constant modification to assure that schools subject to those regulations constantly upgrade and improve the resultant programs.

PROPOSED CHANGES

The proposed changes, including an explanation for each and sections of the regulations which will be affected by the changes are described as follows:

<u>SECTION</u>	<u>PROPOSED CHANGE AND THE REASON FOR PROPOSING THE CHANGE</u>
----------------	--

LANGUAGE ARTS AND CULTURE REQUIREMENTS
(EXHIBIT 1-A, page 1-4)

§ 36.20 Proposed Change: To amend subsection (d) by adding paragraphs (1), (2), (3) and (4) to more appropriately address Native language and culture.

The reason for this proposed addition is to provide for the inclusion of Native language and culture into the curriculum in accordance with Title I of P.L. 101-477.

ALTERNATIVE PROGRAMS
(EXHIBIT 1-B, page 1-5)

§ 36.2 Proposed Change: To amend by adding a subsection (g) to provide for alternative programs for high school students.

The reason for this proposed addition is to provide schools the opportunity to offer students alternative programs for high school completion.

TESTING REQUIREMENTS
(EXHIBIT 1-C, pages 1-6 through 1-8)

§ 36.42 Proposed Change: To amend this section by completely modifying it to reflect new testing policies

The reason for this proposed modification is to provide for new testing requirements that are more in line with the recommendations of the National Commission on Testing and Public Policy and the President's America 2000 strategy.

EXHIBIT 1-A

ACADEMIC/DORMITORY STANDARDS

§ 36.20 Minimum Academic Programs/School Calendar

Current

§ 36.20 (d) The educational program shall include multi-culture and multi-ethnic dimensions designed to enable students to function effectively in a pluralistic society.

Proposed

To amend by adding to subsection (d) the following:

(1) The school's language arts program shall diagnose the English and native language abilities of its students and provide instruction which teaches and/or maintains both the English and the primary native language of the school population. Programs shall meet tribal approval.

(2) The school program shall include aspects of the native culture in all curriculum areas. Content shall meet tribal approval.

(3) The school program shall diagnose the learning styles of its students and provide instruction based upon that diagnosis. The method for diagnosing learning styles shall be determined at the local level.

(4) The school program shall provide for at least one field trip per child per year to broaden experiences.

EXHIBIT 1-B

ACADEMIC/DORMITORY STANDARDS

§ 36.24 Secondary Instructional Program.

Current

Proposed

To amend by adding a new subsection (g) to read as follows:

(g) Schools are encouraged to provide alternative programs which lead to high school completion for students who are unable to function successfully in the regular academic setting.

EXHIBIT 1-C

ACADEMIC/DORMITORY STANDARDS

§ 36.42 Counseling Services

Current

Each school shall offer student counseling services concerned with physical, social, emotional, intellectual, and vocational growth, as determined, under this part, for each individual and the school as a whole through a school-wide testing program.

(a) School-wide testing requirements. Each Agency shall institute and supervise uniform testing program for its schools in order to provide for the objective assessment of student academic performance. Required formal tests will be administered annually to all regular program students in grades two through 12; first grade may be included where appropriate. These formal tests and their subject content will include, but not be limited to, the following:

(1) A pre-test and post-test from a nationally-normed and standardized achievement test which can be correlated in the content areas of reading, language arts, and mathematics to be administered in September and May of each school year or the norming dates of the test.

Proposed

To amend § 36.3 Definitions. by adding the definitions of "Authentic assessment" and "Higher order thinking skills".

"Authentic assessment" means the testing of higher order thinking skills by monitoring performance on tasks requiring analysis, creativity and application of skills in real life situations.

"Higher order thinking skills" (or advanced skills) mean skills such as reading comprehension, written composition and mathematical reasoning. They differ from so-called basic or discrete skills such as phonetic decoding and arithmetic operations.

To amend § 36.42 by modifying it to read as follows:

Each school shall offer student counseling services concerned with physical, social, emotional, intellectual, and vocational growth for each individual. Counseling services will also include a school-wide testing program.

(a) School-wide testing requirements. Each Agency and Area, as appropriate, shall institute and supervise a testing program for its

EXHIBIT 1-C (Cont'd)

ACADEMIC/DORMITORY STANDARDS

Current

(2) Each school shall report, as directed, the summative results of all formal tests under paragraph (a)(1) of this section to the Agency or Area, as appropriate, and respective school boards. Parents shall be informed of the results of such tests for their children.

(3) Each Agency or Area, as appropriate, shall report results of all formal tests under paragraph (a)(1) above to the Office of Indian Education Programs.

Proposed

schools in order to provide for the objective assessment of student academic performance. Required formal tests will be administered annually to all regular program students in grades 2, 4, 8 and 12. (The testing of Chapter I, Special Education and Gifted/Talented students will be in accordance with respective regulations.) If required by state certification standards, schools may use the state required academic achievement test. These formal tests and their subtest contents, as well as the test-related procedures, will include, but not be limited to, the following:

(1) Schools will conduct spring to spring testing using a current version of a nationally normed and standardized academic achievement test. All schools must keep a current record, with the Office of Indian Education Programs, of the test the school will administer each spring and the testing dates. Such test is to be nationally correlated in the content areas of reading, Mathematics, and Language Arts, administered within the empirical norming dates of the test. Advanced skills, commonly known as the higher order thinking skills involved in the subtests of Reading, Comprehension, Mathematics Concepts and Application, and Language Expression for Language Arts, are also to be assessed for each regular program student.

EXHIBIT 1-C (Cont'd)

ACADEMIC/DORMITORY STANDARDS

Current

Proposed

(2) Schools will utilize some form of performance based or authentic assessment in addition to standardized achievement tests. Schools will utilize the American Achievement Tests when they become available.

(3) Each school shall report the summative results of each testing to their respective Agency or Area, as appropriate, and their school board. For standardized academic achievement tests, the results must be reported using the mean Normal Curve Equivalent (NCE) for each grade tested. For performance or authentic assessments, the results must be summative in accordance with the nature of the test given.

(4) Parents/guardians shall be informed of the results of such tests for their children with necessary explanations and interpretation of the test results to ensure adequate understanding of the test results.

(5) All schools shall establish an ongoing student academic assessment program to ensure that defined procedures are in place relevant to conducting testing. Such program shall include the regular training of all teachers and other staff involved in student academic assessment and testing, in basic testing

EXHIBIT 1-C (Cont'd)

ACADEMIC/DORMITORY STANDARDS

Current

Proposed

procedures and routines in order to ensure that the same testing procedures are followed by all teachers and other testing staff.

(6) Each Agency and Area, as appropriate, shall report the results of each school's formal spring tests to the Office of Indian Education Programs by August 1 of each year. Summative information from performance based and authentic assessments is to be reported at that same time.

Consultation Item # 2

CONSULTATION ITEM/TOPIC:	Johnson-O'Malley Program - Eligibility of contract and/or grant schools. (25 CFR 273)
POTENTIAL ISSUE OR CHANGE:	To clarify eligibility of P.L. 93-638 Contract and P.L. 100-297 Grant Schools.
REASON FOR PROPOSING ISSUE OR CHANGE:	The definition of eligibility excluded only Bureau and sectarian schools.
CURRENT OPTION(S) BEING CONSIDERED BY THE BUREAU:	To recommend that contract and grant schools be reconsidered for Johnson-O'Malley eligibility

Background

In FY 82 the appropriations language stated "that the reduction of \$2,900,000 in the Johnson-O'Maaaalley program is to remove tribally controlled contract schools from the program because the schools are funded under the Indian school equalization formula, and are also eligible to receive grants under the Department of Indian Education."

It is anticipated that the total number of students would be increased by approximately 16,000 students over the 225,000 funded in FY 1991 at an average rate of \$104.00 per student.

The average rate per student would reflect a significant reduction in rate per student if the funding remains equal to FY 1991.

EXHIBIT 2-A

JOHNSON-O'MALLEY

§273.12 Eligible Students

Current

Proposed

§273.12 Eligible students.

Indian students, from age 3 years through grade(s) 12, except those who are enrolled in Bureau or sectarian operated

schools, shall be eligible for benefits provided by a contract pursuant to this part if they are 1/4 or more degree Indian blood and recognized by the Secretary as being eligible for Bureau services. Priority shall be given to contracts (a) which would serve Indian students on or near reservations and (b) where a majority of such Indian students will be members of the tribe(s) of such reservations (as defined in §273.2 (o)).

The Bureau proposes to include clarification language that identifies students who are enrolled in P.L. 93-638 Contract schools and P.L. 100-297 Grant schools as being eligible for Johnson-O'Malley funding.

Consultation Item # 3

CONSULTATION ITEM/TOPIC:	Indian School Equalization Program (ISEP)
POTENTIAL ISSUE OR CHANGE:	To amend selected sections of the ISEP regulations (25 CFR 39): the current Student Transportation formula; the current Exceptional Education definitions and fund distribution.
REASON FOR PROPOSING ISSUE OR CHANGE:	<p>Congressional appropriation language requested the Bureau to review and propose amendments to the Student Transportation formula.</p> <p>The passage of P.L. 101-476 has added new categories of handicapping conditions and deleted others. The Bureau is required to update existing related regulations to match the new statute.</p>
CURRENT OPTION(S) BEING CONSIDERED BY THE BUREAU:	To publish the attached revisions to the student transportation formula, exceptional education definitions and fund distribution method in the Federal Register as proposed amendments to 25 CFR 39; and, to present possible options for funding transportation costs of extra-curricular activities.

BACKGROUND

STUDENT TRANSPORTATION

The OIEP is aware that many schools are currently utilizing academic program funds to cover insufficient funding for transporting students to and from home. It is also aware that there are no funds available for extra-curricular activities, nor are there funds available for on-reservation boarding schools and peripheral dormitories to transport students home on week-ends. This, coupled with congressional appropriation language, has resulted in the Bureau proposing the attached changes in the student transportation formula.

In addition to the proposed transportation formula, the Bureau is presenting the following as possible options for the distribution of extra-curricular activities transportation funds and is soliciting comments and/or opinions as to the most beneficial method:

1. To provide a dollar amount per student (such as \$10.00/student for an example)
2. To provide a percentage across the board for all students of 10%.
3. To provide weighted units for activities for Elementary Grades K-8 of .01 and for Grades 9-12, .02.

EXCEPTIONAL EDUCATION CHANGES

The passage of P.L. 101-476 has resulted in the deletion of the handicapping conditions of Blind, Deaf, Hard of Hearing and Visually Handicapped; and created the handicapping conditions of Autism, Hearing Impaired, Traumatic Brain Injury and Visually Impaired. The Bureau is proposing to amend § 39.11, Definitions, and § 39.12, Entitlement for instructional purposes to be commensurate with P.L. 101-476.

SUBPART H - STUDENT TRANSPORTATION (EXHIBIT 3-A page 3-3)

This Exhibit identifies new definitions necessary to implement the new proposed allocation of transportation funds and the formula by which those funds will be distributed.

EXCEPTIONAL EDUCATION CHANGES (EXHIBIT 3-B, page 3-10)

This Exhibit shows the proposed changes in definitions and fund distribution required by the enactment of P.L. 101-476

EXHIBIT 3-A

Subpart H - Student Transportation

Current

§ 39.100 Definitions.

As used in this subpart, the term:

(a) "Basic transportation miles" means the daily average of all bus miles logged for round trip home-to-school transportation of day students.

(b) "Transported student" means the average number of students transported to school on a daily basis.

(c) "School bus" means a passenger vehicle, operated by an operator in the employ of, or under contract to, a Bureau operated or funded school, who is qualified to operate such a vehicle under state or Federal regulations governing the transportation of students; which vehicle is used to transport day students to and/or from home and the school.

§ 39.101 Purpose and scope.

The purpose of this section is to provide funds to each school for the round trip transportation of students between home and the school site.

§ 39.102 Allocation of transportation funds.

Transportation funds for FY 1980 shall be allocated to each school as follows:

(a) Day students. Funds shall be allocated to each school which provides daily transportation of students

Proposed

To amend by adding a Statement of Philosophy as § 39.100; deleting current definitions and adding new definitions as § 39.101; Redesignating current § 39.101, Purpose and Scope, as § 39.102; Revising current § 39.102, Allocation of transportation funds and redesignating as § 39.103; and redesignating current § 39.103 as § 39.104, as follows:

§ 39.100 Statement of philosophy.

It is the philosophy of the Office of Indian Education Programs (OIEP) in transportation that:

(a) All vehicles which transport BIA funded students must meet Federal transportation standards (#17).

(b) Part of a well-rounded education program for students includes school activities and funds should be appropriated to support those programs and activities.

(c) Students should be with parents as much as is economically possible and as is educationally sound; and funds should be appropriated to support transportation related to making this possible.

(d) There must be equitable distribution of appropriated funds in transportation to assure that schools do not absorb higher transportation costs at the expense of the Indian School Equalization Program.

EXHIBIT 3-A (Cont'd)

Subpart H - Student Transportation

Current (Cont'd)

between the student's residence and the school site by the following formula:

(1) $180 \times (\$.85 \text{ per basic transportation mile} + \$.61 \text{ per transported student})$.

(2) The allocation shall be based on the daily average of transported students and basic transportation miles computed during the October and November count periods.

(3) The formula shall not apply to any dormitory which provides daily transportation between dormitory and the public school which the dormitory student attends.

(b) Boarding school and dormitory students. Funds shall be allocated to each boarding school and dormitory for the transportation of resident students according to the following criteria:

(1) For each student whose home is more than a mile and no more than 100 miles from the boarding school or dormitory, the school shall receive \$3.20 per mile per student per year. The miles per student shall be the shortest driving distance one way from the student's home to the school site. This provision applies only to those students for whom ground transportation is provided and for whom it is not necessary to provide air transportation.

Proposed (Cont'd)

(e) There must be efficiency in the use of time (economical scheduling of bus routes) and the use of funds in the planning of the transportation budget.

(f) Funding for transportation mileage conforms to the approved school boundaries accepted by school boards and tribes.

§ 39.101 Definitions.

As used in this subpart, the term:

(a) "Basic transportation miles" means the daily average of all bus miles logged for round trip home to school transportation of day students.

(b) "BIA funded students" means a student enrolled in a Bureau funded school and who is eligible to receive services funded by the Indian School Equalization Formula.

(c) "Boarding school mileage" means the approved average weekly mileage for home visits during the weekend for trips to and from the student's home or nearest pickup point. Boarding and/or peripheral dormitories must assure that this weekly trip is provided to be eligible for this funding. Off-Reservation Boarding Schools are ineligible for this funding.

EXHIBIT 3-A (Cont'd)

Subpart H - Student Transportation

Current (Cont'd)

(2) For each student whose home is more than 100 and no more than 350 miles from the boarding school or dormitory, the school shall receive \$1.60 per mile per student per year. The miles per student shall be the shortest driving distance one way from the student's home to the school site. This provision applies only to those students for whom ground transportation is provided and for whom it is not necessary to provide air transportation.

(3) For each student whose home is more than 350 miles from the boarding school or dormitory, the school shall receive \$.48 per mile per student per year. The miles per student shall be the shortest driving distance one way from the student's home agency to the school site. This provision applies only to those students for whom ground transportation is provided and for whom it is not necessary to provide air transportation.

(4) For each student whose home is more than 350 miles from the boarding school or dormitory and for whom it is necessary to provide airplane transportation, the school shall receive \$.60 per mile per student flown per year. The miles per student shall be the actual one way air miles between the airport closest to the school site and the closest to the student's home. Airplane transportation shall be provided only when

Proposed (Cont'd)

(d) "Driver cost" means the hourly rate for Wage Grade 7/5 in the school's area + 21% Employee Benefit Cost x 6 hours per day x 180 school days. (Note: For boarding schools, change 180 school days to 36 school days.)

(e) "Economically sound" means that all transportation should be planned and operated with maximum safety and efficiency. Routes, schedules, size of vehicle used, etc. should be planned to reduce deadhead (empty) and overlapping mileage to the greatest extent possible.

(f) "Educationally sound" means to maximize the student's educational opportunities.

(g) "Efficiency" means to assure compliance with OMB Circular A-123.

(h) "Extra curricular activities" means all school based activities which enrich the academic program or promote school sponsored athletic or club activities.

(i) "Fixed vehicle cost" means the General Services Administration (GSA) monthly rate for each vehicle size for the school's particular Region in effect during count week. Locally owned vehicles will receive GSA rates for that Region.

(j) "GSA rental rate" means the monthly mileage rate in effect in the Region where the school is located during count week.

EXHIBIT 3-A (Cont'd)

Subpart H - Student Transportation

Current (Cont'd)

ground transportation is unavailable or not cost effective.

(5) For each student attending Mt. Edgecombe Boarding School, Sitka, Alaska, who requires airplane transportation, the school shall receive \$1.05 per mile per student flown per year. The mile per student shall be the one way air miles between the Sitka, Alaska airport and the airport nearest the student's home.

(6) At least 80% of the funds received by the school under 3, 4, and 5 above must be used for student travel between home and school.

§ 39.103 Annual transportation formula adjustment.

The Director will review transportation allotment factors each year and make changes in factors based on changes in transportation costs.

Proposed (Cont'd)

(k) "Maintenance trip" means the round trip miles to the nearest maintenance facility approved by GSA for major vehicle service; maintenance trips are approved for every 3,000 miles of approved student mileage.

(l) "School boundary" means the boundary restrictions approved by the tribe(s). Transportation costs will not be provided for students without approved applications by the appropriate BIA official

(m) "School bus driver - MVO" means a state/Federal Certified Licensed Driver (CLD) for the size of the vehicle operated.

(n) "Vehicle means those vehicles which are funded and meet all Federal and state standards for transporting students.

(o) "Vehicle mileage cost" means the count week average mileage x 180 school days + necessary miles for maintenance every 3,000 miles x GSA mileage rate for vehicle size for the school's Region.

§ 39.102 Purpose and scope.

The purpose of this section is to provide funds to each school for the round trip transportation of students between home and the school site.

EXHIBIT 3-A (Cont'd)

Subpart H - Student Transportation

Current

Proposed (Cont'd)

§ 39.103 Allocation of transportation funds.

(a) Boarding school and dormitory students. Funds shall be allocated to each off-reservation boarding school and dormitory to provide for students' arrival at school in the Fall, round trip home at Christmas and their return home at the end of the school year as follows:

(1) The actual number of miles traveled by all bus(es) or other vehicles to get students to school at the beginning of the year multiplied by four (4) one way trips per year is equal to the annual student transportation miles.

(2) The annual student transportation miles multiplied by the annual rate per mile is equal to the transportation funding for Residential Transportation.

(3) For students that are transported via aircraft, the school will receive funds based upon the actual one way air fare at the most economical rate to the government multiplied by the actual one way trips per year, not to exceed four (4), which is equal to the transportation funding for air miles. Air transportation shall be provided only when ground transportation is unavailable or not cost effective.

(4) Ground mileage from airport arrival to school may be added to off-reservation boarding student mileage.

EXHIBIT 3-A (Cont'd)

Proposed

§ 39.123 Allocation of transportation funds (Cont'd).

Transportation funds are proposed to be distributed using the following formula:

I. Fixed Vehicle Cost - - -

_____ (No.) 16 pass.	x local GSA monthly rental rate	x 12 = \$ _____
_____ (No.) 24 pass.	x local GSA monthly rental rate	x 12 = \$ _____
_____ (No.) 36 pass.	x local GSA monthly rental rate	x 12 = \$ _____
_____ (No.) 48 pass.	x local GSA monthly rental rate	x 12 = \$ _____
_____ (No.) 60 pass.	x local GSA monthly rental rate	x 12 = \$ _____
_____ (No.) 66 pass.	x local GSA monthly rental rate	x 12 = \$ _____
Total \$ _____		

II. Vehicle Mileage Cost - DAY SCHOOLS

A.	B.	C.	D.*	E.	F.	G.
Count Week 1 Day Ave. Mileage	No. of Days	Daily Mileage Sub-total	Round Trip Miles for Service	Total Mileage	GSA Rate	Total
16 pass. _____	x 180 = _____	+ _____	= _____	x _____	= \$ _____	
24 pass. _____	x 180 = _____	+ _____	= _____	x _____	= \$ _____	
36 pass. _____	x 180 = _____	+ _____	= _____	x _____	= \$ _____	
48 pass. _____	x 180 = _____	+ _____	= _____	x _____	= \$ _____	
60 pass. _____	x 180 = _____	+ _____	= _____	x _____	= \$ _____	
66 pass. _____	x 180 = _____	+ _____	= _____	x _____	= \$ _____	
Total \$ _____						

*D = Annual mileage divided by 3,000 x round trip miles to service garage x # of busses x 35.

EXHIBIT 3-A (Cont'd)

Proposed (Cont'd)

III. Vehicle Mileage Cost - BOARDING SCHOOLS

A.	B.	C.	D.*	E.	F.	G.
Count Week 1 Day Ave. Mileage	No. of Days	Daily Mileage Sub-total	Round Trip Miles for Service	Total Mileage	GSA Rate	Total
16 pass. _____	x 36	= _____	+ _____	= _____	x _____	= \$ _____
24 pass. _____	x 36	= _____	+ _____	= _____	x _____	= \$ _____
36 pass. _____	x 36	= _____	+ _____	= _____	x _____	= \$ _____
48 pass. _____	x 36	= _____	+ _____	= _____	x _____	= \$ _____
60 pass. _____	x 36	= _____	+ _____	= _____	x _____	= \$ _____
66 pass. _____	x 36	= _____	+ _____	= _____	x _____	= \$ _____
Total \$						_____

*D = Annual mileage divided by 3,000 x round trip miles to service garage x # of busses x 18.

IV. Driver Cost - DAY SCHOOLS

_____ @ \$14.80 x 6 hours per day x 180 days = \$ _____
 No. of Drivers

TOTAL TRANSPORTATION COST (DAY SCHOOLS) (I + II + IV) = \$ _____

V. Driver Cost - BOARDING SCHOOLS

_____ @ \$14.80 x 6 hours per day x _____ days = \$ _____
 No. of Drivers

TOTAL TRANSPORTATION COST (BOARDING SCHOOLS) (I + III + V) = \$ _____

EXHIBIT 3-B

EXCEPTIONAL EDUCATION CHANGES

Current

(i) "Exceptional Child Program" means weighted programs for children who are receiving special education services, consistent with the identification, evaluation and provisions of a free appropriate public education required by Part B of the Education of the Handicapped Act (20 U.S.C. 1401 et seq.; 45 CFR 121a1) and Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794; 45 CFR 84) and who have the following diagnosed impairments:

(1) "Deaf" means a hearing impairment which is so severe that the child is impaired in processing linguistic information through hearing, with or without amplification, which adversely affects educational performance.

(2) "Hard of hearing" means a hearing impairment, whether permanent or fluctuating, which adversely affects a child's educational performance but which is not included under the definition of "deaf" in this section.

(10) "Visually handicapped" means a visual impairment which, even with correction, adversely affects a child's educational performance. The term includes partially seeing, but not fully blind children.

(15) "Blind" means the possession of a central vision acuity of 20/200 or less in

Proposed

To amend § 39.11 by deleting the definitions (1) "Deaf", (2) "Hard of Hearing", (10) "Visually handicapped" and (15) "Blind"; and, by adding (1) "Autism", (2) "Hearing impaired", (10) "Visually impaired" and, (15) "Traumatic Brain Injury".

In all instances where the terms "handicapped" and "handicapping" are used, they are to be changed to read "disabled" and "disabling" respectively.

(1) "Autism" means a severe disabling condition that has been diagnosed by a qualified diagnostician using the current revision of the Diagnostic and Statistical Manual of Mental Disorders.

(2) "Hearing Impaired" means a hearing impairment, whether permanent or fluctuating, which adversely affects a child's educational performance .

(10) "Visually Impaired" means a visual impairment which, even with correction, adversely affects a child's educational performance .

(15) "Traumatic Brain Injury" means injuries to the brain caused by external mechanical force.

EXHIBIT 3-B (Cont'd)

EXCEPTIONAL EDUCATION CHANGES

Current

Proposed

the better eye with correcting
glasses or a peripheral field
of vision so contracted that
its widest diameter is less
than 20%

EXHIBIT 3-B (Cont'd)

EXCEPTIONAL EDUCATION CHANGES

Current

Proposed

To amend § 39.12 by deleting Deaf, Blind, Hard of hearing and Visually handicapped and adding Traumatic brain injury, Autistic, Visually impaired and Hearing impaired.

Supplemental program	Add-on weight
Intense bilingual .....	.20
EXCEPTIONAL CHILD PROGRAMS	
Full time—high service level:	
Deaf	3.00
Blind	3.00
Severely multihandicapped	3.00
Severely and profoundly retarded	3.00
Students requiring hospital/home-bound instruction	3.00
Severely emotionally disturbed	3.00
Severely emotionally disturbed (non-severe)	1.00
Specific learning disabled	1.00
Mentally retarded	1.00
Part time—moderate service level:	
Emotionally disturbed .....	.50
Specific learning disabled .....	.50
Mentally retarded .....	.50
Multihandicapped .....	.50
Hard of hearing .....	.25
Visually handicapped .....	.25
Orthopedically impaired .....	.25
Other health impaired .....	.25
Speech impaired .....	.25

Supplemental Programs	Add-on Weight
Exceptional Child Program	
Traumatic Brain Injury.....	3.00
Part time-Moderate Service Level	
Autistic.....	1.00
Visually impaired...	1.00
Hearing impaired....	1.00

Consultation Item # 4

CONSULTATION ITEM/TOPIC:	Indian School Equalization Program
POTENTIAL ISSUE OR CHANGE:	To consider amending the current Indian School Equalization Formula.
REASON FOR PROPOSING ISSUE OR CHANGE:	A working committee of professional educators designated by the Director has studied the effectiveness of the ISEF in relationship to academic and residential standards. The results indicate the potential for changing the ISEF.
CURRENT OPTION(S) BEING CONSIDERED BY THE BUREAU:	To consider implementation of the ISEF committee findings.

BACKGROUND

SPECIAL REPORT ON ISEF

The BIA began implementation of the current Indian School Equalization Formula (ISEF) in the early 1980's after passage of P.L. 95-561, the Education Amendments of 1978. The basic purpose of the formula was to equalize the distribution of funds to BIA funded schools based upon the number and type of students served by each school. Prior to the implementation of the requirements of P.L. 95-561, the Bureau had no standard way of distributing funds to Bureau funded schools.

In 1990, the Director, OIEP designated a group of individuals to serve as an ISEF working Committee. The committee was charged with reviewing the effects of the current ISEF on school level programs and to identify potential changes which should be considered by the Director for future implementation. The committee issued its final report to the Director, OIEP in August, 1991. Those findings are summarized in the EXECUTIVE SUMMARY.

Before implementing any changes to the formula, the Director, OIEP is requesting the views/comments from Tribes, school boards, school administrators, line officers, parents and other interested parties on the report's conclusions and recommendations.

SPECIAL REPORT ON ISEF (EXHIBIT 4-A, page 4-3)

This Exhibit is the report of findings submitted to the Director by the working committee in August of 1991.

EXHIBIT 4-A

A Review of the Indian School Equalization Program

Submitted to the Director, Office
of Indian Education Programs

Prepared by the ISEP Working Committee

August, 1991

A Review of the Indian School Equalization Program

Table of Contents

Section	Page
Executive Summary	1
Statement of Assumptions	3
Introduction	4
Methodology	4
Data Collection	5
Sampling	5
Comments on Data Collection	6
Findings	6
Conclusions	27
Recommendations	28
 Exhibit I - ISEP Working Committee	 33
Exhibit II - School Budget and Program Questionnaire	35
Exhibit III - On Site School Visitation Guide	48
Exhibit IV - National Dormitory Criteria Objectives	60

Executive Summary

The Study Committee has identified these observations, findings, and recommendations as ways to improve the Indian School Equalization Program (ISEP). They are based on a review of the current ISEP and field visits to individual schools. (The relevant National Education Goals are noted after each of the findings.)

FINDINGS. The overarching finding is that the level of ISEP funding is insufficient for the BIA funded schools to conduct a comprehensive educational program based on the diverse educational needs of American Indian youth.

1. Schools are grossly underfunded as illustrated by the value of the basic funding level per weighted student unit (WSU) at \$2538 for FY90 and the failure to substantially increase the level in the interim.

The ISEP funding level has not increased in a sufficient amount to fund the statutorily mandated teacher pay scale needed to attract and retain qualified personnel.

Bureau funded schools operate at subsistence levels, and the ISEP funding level is not sufficient for schools to provide the education program required to provide a quality education program in keeping with the Presidential and Secretarial Initiatives. Programs in BIA funded schools cost more because of variables such as small school size, school isolation, bilingual pupil population, and obsolete educational facilities.

Goal 1 (Readiness), Goal 2 (School completion), Goals 3 and 4 (Student performance), and Goal 6 (Safe schools).

2. At current funding levels, BIA funded schools cannot meet urgent student needs for early childhood programs, extended school year, vocational education, enrichment programs, school readiness, and dropout prevention programs, all of which are required if Presidential goals are to be realized.

Goal 1 (Readiness), Goal 2 (School completion), Goals 3 and 4 (Student performance), and Goal 6 (Safe schools).

3. Current funding levels, staffing ratios, and counseling and program services are not sufficient to meet the needs of residential students.

The characteristics of the student population residing in dormitories are changing. Students enrolling in boarding schools are increasingly "at-risk" for social, economic, and psychological reasons. Residential programs are independent of academic programs. Residential staff are not always properly trained to deal with problems/needs of students.

Goal 2 (School completion), Goals 3 and 4 (Student performance), and Goal 6 (Safe schools).

4. Facilities for BIA funded schools are deteriorating, overcrowded,

unsafe, and educationally obsolete with no provision for program expansion and increased enrollment, circumstances that prevent schools from providing basic educational programs.

Goals 1 (Readiness), Goal 2 (School completion) Goals 3 and 4 (Student performance) and Goal 6 (Safe schools).

5. Inadequate appropriations for food services and pupil transportation and delays in funding and determination of allocations for chapter 1 and special education programs compel BIA funded schools to use ISEP regular education funds for these programs and services.

Goal 1 (Readiness) and Goals 3 and 4 (Student performance).

RECOMMENDATIONS. These recommendations are based on the compelling finding that the formula distributes insufficient funds and ISEP does not recognize the diversity of needs found in the student population. Changes in the ISEP weights should not be made unless the value of the WSU is increased to a level of \$3499 for FY 1993.

1. For FY 1993, the WSU amount should be increased to \$3499 and in successive years, the amount should be adjusted to reflect increases in the statutorily mandated teacher pay scale and the OMB current services inflation adjustment.

2. The weight for kindergarten pupils should be increased from 1.00 to 1.20, and a weight of 1.00 should be established for pre-school programs. Using existing statutory authority, the Bureau should take immediate action to develop and recommend weights for vocational education, extended school year, and dropout prevention programs.

3. The weights for dormitory students should be increased to 1.90 for grades 1-6 and 1.40 for grades 7-12. Standards for student staffing ratios should be revised to reflect the special needs of students, including those in special education and intensive residential guidance programs and to require that residential staff receive appropriate professional training.

4. A coordinated and integrated effort should be made to improve facilities for BIA funded schools through the Facilities Improvement and Repair program, the continuing operations and maintenance program, and development of a facilities replacement plan.

5. Bureau procedures for allocating funds for all educational programs, services and support activities to schools should be expedited to facilitate program planning and fiscal management.

Statement of Assumptions

The ISEP Working Committee operated on the premise that the following criteria should be reflected in the design and implementation of the BIA funding system:

1. The Administration's goals for the education of Indian youth as stated by the President and the Secretary of Interior should be reflected in the standards for the operation of schools and fully funded through ISEP as developed in consultation as required under Section 1130 of PL 95-561, as amended.
2. The OIEP's assessment and reporting system should provide evidence of the extent to which (a) standards are being met, (b) all students are being served adequately, and (c) the timelines by which the schools are expected to achieve the Administration's goals for the education of Indian youth.
3. The base per pupil amount in the funding system should be sufficient to ensure that all Indian youth have equality of access to equivalent educational programs and services appropriate to their needs and aspirations.
4. The funding system should provide sufficient funding for the full range of necessary educational programs and services including, but not be limited to, the basic educational and human development programs, special educational services and programs, instructional media, school food services, pupil transportation, and special psychological and diagnostic services.
5. The funding system should recognize the additional costs associated with different grade levels and special educational needs including, but not be limited to, those related to physical or psychological disabilities, limited English proficiency, educational disadvantage, "at risk" of not completing high school because of special academic or socio-emotional conditions, and gifted and talented.
6. The funding system should recognize the additional costs occurring in schools whose special conditions contribute to variations in the necessary costs associated with providing equivalent educational programs and services. Such special conditions shall include, but not be limited to, geographical isolation, school enrollment, cost of living, staffing differentials, and special socio-economic conditions.

INTRODUCTION

In August, 1990, the Director, Office of Indian Education Programs convened a working committee in Washington, DC to study the effectiveness of the current Indian School Equalization Program (ISEP) formula. The working committee consisted of representatives from Tribal and Bureau schools, Tribes, school boards and associations, Bureau Area/Agency Education Offices and House and Senate congressional committees. Collectively, the representatives on the working committee were directly involved with more than 100 Bureau funded schools either as administrators or Bureau service providers. A complete list of the committee members is shown in Exhibit I.

Basically, the working committee was requested to review the current ISEP formula. The overall study was designed to address the following three major objectives:

1. Review the development of the current ISEP formula.
2. Conduct on-site visits to a sample of Bureau funded schools to identify the effects of the current formula in allowing each school to meet the appropriate standards.
3. Identify detailed options for use in revising the ISEP formula.

METHODOLOGY

To address the major areas related to the ISEP formula, the working committee identified seven major questions to be studied:

1. What were the ISEP funded "programs"?
2. What level of funding did the ISEP formula provide to the school for each ISEP program to meet academic and residential standards?
3. What amount did the school actually spend to provide the programs?
4. Did the school spend more on ISEP programs than was generated through the ISEP formula? If so, what were the sources of the additional funds?
5. What set of academic standards did the school elect to meet for accreditation purposes? What residential standards were in effect at the school?
6. Were there any academic or residential standards not being met?
7. Were there any shortfalls in transportation or facilities management funding levels?

Data Collection

To gather information to answer the seven questions, the committee selected an initial sample of 37 schools and asked to voluntarily complete a Budget and Program Questionnaire (BPQ) on their FY 1990 school year. The initial survey instrument was distributed to the sample of 37 schools in January, 1991. A copy of the BPQ appears in Exhibit II.

Based on the responses to the initial survey instrument, the committee selected a final sample of schools for on-site visitations by teams of the working committee. A separate instrument was developed for use during the on-site visits and appears in Exhibit III.

The committee also reviewed information obtained from the Department of Defense, several state departments of education, several tribes, and schools. Such information included other pertinent research studies/surveys, the Code of Federal Regulations (CFR), various statutes, BIA financial reports, a recent Inspector General report and other education related documents.

Sampling

During the 1989-90 school year, the Bureau funded 180 schools under the ISEP. The initial sample of 37 schools was selected based on size of school enrollment, type of school, location and grade levels offered. The number and type of schools within the initial sample approximate the proportionate number of such schools within the overall universe of 180 schools. The Bureau funded schools within eleven (11) area jurisdictions during the 1989-90 school year, and the initial sample included schools from all eleven Bureau areas.

Ten (10) schools responded to the initial survey instrument during March and April, 1991. On-site visitations to eight of the ten schools were conducted by teams of the working committee during May/June 1991.

The overall results of the sampling process were as follows:

Type of School	Number of Schools Funded	Number of Schools Surveyed	Number of Schools Responding	Number of On-Site Visitations
Day	109	19	5	4
Boarding	57	14	4	3
Peripheral Dormitory	14	4	1	1
Totals	180	37	10	8

Committee's Comments on Data Collection:

1. The 37 schools in the initial sample were representative of the total universe of 180 schools and the three major types of schools: (1) day schools (2) boarding schools and (3) peripheral dormitories.
2. The data submitted from the schools was reviewed by a committee of professionals which included representation from similar schools and dormitories across the country.
3. Information requested by the committee was not always available. While the Bureau had some information available, such information was subject to the following conditions:
 - a. Needed data bases were maintained in several different levels and offices of the Bureau.
 - b. The different data bases contained information for the total school level only, specific program information within a given school was almost non-existent.
 - c. Some schools declined to participate in the study because of how data collected in previous Bureau studies were used.

FINDINGS

The working committee used two primary sources of information in identifying answers to the seven research questions: (1) the results of the BPQs and (2) the results of the on-site visitations to the schools. Other sources of information included reports/surveys from tribes, state departments of education, other Federal agencies and schools.

Question 1. What were the ISEP funded "programs"?

Finding 1.A: During the 1989-90 school year, the ISEP formula identified and generated discrete funding amounts for the following ISEP weights:

Basic Instruction Programs

Kindergarten
Grades 1-3
Grades 4-6
Grades 7-8
Grades 9-12

Basic Boarding Programs

Grades 1-3
Grades 4-6
Grades 7-8
Grades 9-12

Supplemental Programs

Bilingual

Intensive Residential Guidance (IRG)

Gifted and Talented Programs

Gifted/Talented

Exceptional Child Programs

School Board Adjustments

Finding 1.B: The activities funded under the ISEP weights were as follows:

Academic

1. direct instruction
2. teachers
3. para-professionals
4. bilingual
5. intense residential guidance
6. gifted/talented
7. exceptional child
8. vocational education
9. athletics
10. special subject matters
 - a. art
 - b. music
 - c. physical education
11. guidance
12. health
13. library
14. reading improvement
15. administration
 - a. principals/asst principals
 - b. registrar
 - c. clerical/secretarial
16. capital outlays-kitchen/new progrms
17. ed. equip. repair/replacement
18. staff training
19. school meal program
20. textbooks/libr.supplies
21. instruct. supplies
22. tele-communications
23. printing/reproduction
24. computer maintenance
25. extra curricular activities
26. transp. costs (not currently funded)
 - a. health
 - b. extra curric
 - c. sports
27. school nurse

Residential

1. all staffing in the dorms
2. student coverage
3. tutoring/remedial
4. psychological services
5. staff training
6. janitorial services(non O&M)
7. equipment replacement
8. student security
9. vocational training
10. student transportation
11. tribal-community relations
12. facility mgmnt. costs(non O&M)
13. study space for students
14. weekend activities
15. library services
16. drug/alcohol education

Finding 1.C: The ISEP formula was not designed to provide funding for preschool programs, after-school programs, summer programs, food, staff development, equipment outlays/repair (instruction, playground, etc.) However, needs at the local level and lack of other funding sources force schools to use ISEP funds for these functions.

Question 2. What level of funding did the ISEP formula provide to the school for each ISEP program to meet academic and residential standards?

Finding 2: Table I shows a summary of the FY 1990 ISEP funding and expenditures for each of the ten sampled schools. The column entitled "Funding" in Table I identifies the level of ISEP funding provided to each of the ten sampled schools during the 1989-90 school year. School number one received a total of \$2,364,700 in ISEP funds. School number two received a total of \$2,093,400 in ISEP funds.

Table II provides a more detailed breakdown of the specific ISEP programs funded for each of the ten schools. For example, school number one received \$36,547 for Instruction, Grades 1-3, \$104,058 for Instruction, Grades 4-6, \$268,012 for Instruction, Grades 7-8 and \$570,796 for Instruction, Grades 9-12. Also, school number one received \$42,638 for Boarding, Grades 1-3, \$130,072 for Boarding, Grades 4-6, \$279,180 for Boarding, Grades 7-8 and \$523,462 for Boarding, Grades 9-12. The school received \$275,373 for the Intense Residential Guidance (IRG) program, \$22,200 for the Gifted and Talented program and \$112,362 for the Exceptional Education program. School number one did not offer Bilingual or Kindergarten Instruction programs. Table II also lists the ISEP program funding levels for each of the nine remaining schools.

Table III shows the level of ISEP funding for each school by the specific ISEP grade level(s). For example, the Instruction - Kindergarten portion of Table III shows the Kindergarten funding level received for each of the ten schools. Schools number one, number three, number nine and number ten did not offer a Kindergarten program. Table III provides a breakdown of all basic instruction and boarding funding levels for all grades.

TABLE I

SUMMARY OF ISEP FUNDING AND EXPENDITURES BY SCHOOL

Scl No.	Funding	Pers.Exp.	Oth.Exp.	Tot.Exp.	Fund.-Exp	TP%
1	2,364,700	2,457,967	439,773	2,897,740	-533,040	0.85
2	2,093,400	1,283,807	847,889	2,131,696	-38,296	0.60
3	1,771,500	1,537,362	325,992	1,863,354	-91,854	0.83
4	1,112,200	751,338	306,257	1,057,595	54,605	0.71
5	606,700	607,919	275,259	883,178	-276,478	0.69
6	835,300	701,025	160,336	861,361	-26,061	0.81
7	196,000	421,343	56,896	478,239	-282,239	0.88
8	2,012,700	1,135,228	968,572	2,103,800	-91,100	0.54
9	199,900	138,059	52,609	190,668	9,232	0.72
10	2,831,200	2,653,866	402,359	3,056,225	-225,025	0.87

TABLE II

- School #1

Grade	ISEP Funding	Personnel Expend.	Other Expend.	Total Expend.	Difference	Percent Pers.
K				0	0	0.00
11	36,547	36,502	6,899	43,401	-6,854	0.84
14	104,058	104,459	14,976	119,435	-15,377	0.87
17	268,012	113,914	27,211	141,125	126,887	0.81
19	570,796	767,443	134,325	901,768	-330,972	0.85
B1	42,638	50,302	8,655	58,957	-16,319	0.85
B4	130,072	208,500	27,577	236,077	-106,005	0.88
B7	279,180	338,484	59,569	338,053	-118,873	0.85
B9	323,462	488,260	116,127	604,387	-80,925	0.81
Bil				0	0	0.00
IRG	275,373	223,115	39,909	263,024	12,349	0.85
G&T	22,200	22,194	0	22,194	6	1.00
EXE	112,362	104,794	4,525	109,319	3,043	0.96
Total	2,364,700	2,457,967	439,773	2,897,740	-533,040	0.85

School #2

Grade	ISEP Funding	Personnel Expend.	Other Expend.	Total Expend.	Difference	Percent Pers.
K	93,906	74,754	38,098	112,852	-18,946	0.66
11	353,289	228,468	143,334	371,802	-18,513	0.61
14	195,426	147,529	79,286	226,815	-31,389	0.65
17	158,371	149,661	64,253	213,914	-55,543	0.70
19	580,694	357,965	235,595	593,560	-12,866	0.60
B1	39,085	39,085	15,857	54,942	-15,857	0.71
B4	47,587	47,587	19,306	66,893	-19,306	0.71
B7	63,450	40,616	25,742	66,358	-2,908	0.61
B9	285,525	116,411	115,841	232,252	53,273	0.50
Bil	197,964	31,534	80,316	111,850	86,114	0.28
IRG	11,421	0	10,633	10,633	788	0.00
G&T				0	0	0.00
EXE	66,682	50,197	19,628	69,825	-3,143	0.72
Total	2,093,400	1,283,807	847,889	2,131,696	-38,296	0.60

TABLE II

School #3

Grade	ISEP Funding	Personnel Expend.	Other Expend.	Total Expend.	Difference	Percent Pers.
K				0	0	0.00
I1				0	0	0.00
I4	208,116	219,422	46,473	265,893	-57,777	0.83
I7	187,272	406,942	90,255	497,197	-9,925	0.82
I9				0	0	0.00
B1				0	0	0.00
B4	260,145	211,700	56,775	268,475	-8,330	0.79
B7	307,600	413,000	110,205	523,205	-15,605	0.79
B9				0	0	0.00
B11				0	0	0.00
IRG	143,397	86,300	6,750	93,050	50,347	0.93
G&T				0	0	0.00
EXE	164,970	200,000	15,534	215,534	-50,564	0.93
Total	1,771,500	1,537,362	325,992	1,863,354	-91,854	0.83

School #4

Grade	ISEP Funding	Personnel Expend.	Other Expend.	Total Expend.	Difference	Percent Pers.
K	149,742	161,044	19,475	180,519	-30,777	0.89
I1	408,110	230,238	115,313	345,551	62,559	0.67
I4	279,180	163,452	97,729	261,181	17,999	0.63
I7				0	0	0.00
I9				0	0	0.00
B1				0	0	0.00
B4				0	0	0.00
B7				0	0	0.00
B9				0	0	0.00
B11	153,802	157,956	3,200	161,156	-7,354	0.98
IRG				0	0	0.00
G&T	66,300	5,948	50,540	56,488	9,812	0.11
EXE	55,066	32,700	20,000	52,700	2,366	0.62
Total	1,112,200	751,338	306,257	1,057,595	54,605	0.71

TABLE II

School #5

Grade	ISEP Funding	Personnel Expend.	Other Expend.	Total Expend.	Difference	Percent Pers.
K	93,906	87,764	36,081	123,845	-29,939	0.71
I1	231,465	213,631	48,253	301,884	-70,419	0.71
I4	116,748	122,517	63,024	185,541	-68,793	0.66
I7	97,459	86,197	59,925	146,122	-48,662	0.59
I9				0	0	0.00
B1				0	0	0.00
B4				0	0	0.00
B7				0	0	0.00
B9				0	0	0.00
Bil				0	0	0.00
IRG				0	0	0.00
G&T				0	0	0.00
EXE	67,122	97,810	27,976	125,786	-58,664	0.78
Total	606,700	607,919	275,259	883,178	-276,478	0.69

School #6

Grade	ISEP Funding	Personnel Expend.	Other Expend.	Total Expend.	Difference	Percent Pers.
K	131,976	115,427	20,706	136,133	-4,157	0.85
I1	286,286	262,859	33,845	296,704	-10,418	0.89
I4	131,976	128,308	14,250	142,558	-10,582	0.90
I7	88,322	59,064	30,162	89,226	-904	0.66
I9				0	0	0.00
B1				0	0	0.00
B4				0	0	0.00
B7				0	0	0.00
B9				0	0	0.00
Bil	115,225	76,518	38,707	115,225	0	0.66
IRG				0	0	0.00
G&T	11,000	0	11,000	11,000	0	0.00
EXE	70,515	58,849	11,666	70,515	0	0.83
Total	835,300	701,025	160,336	861,361	-26,061	0.81

TABLE II

School #7

Grade	ISEP Funding	Personnel Expend.	Other Expend.	Total Expend.	Difference	Percent Pers.
K	22,278	41,389	14,107	56,096	-23,820	0.75
11	57,234	133,761	14,107	147,868	-30,634	0.90
14	48,415	86,831	14,107	100,938	-52,523	0.86
17	11,205	63,235	14,107	82,342	-71,137	0.83
19				0	0	0.00
B1				0	0	0.00
B4				0	0	0.00
B7				0	0	0.00
B9				0	0	0.00
Bil				0	0	0.00
IRG				0	0	0.00
G&T	16,400	7,166	468	7,634	8,766	0.94
EXE	20,470	83,361	0	83,361	-62,891	1.00
Total	196,000	421,343	56,896	478,239	-282,239	0.88

School #8

Grade	ISEP Funding	Personnel Expend.	Other Expend.	Total Expend.	Difference	Percent Pers.
K	154,818	125,750	134,301	260,051	-105,233	0.48
11	371,563	155,025	134,301	289,326	82,237	0.54
14	210,654	121,625	134,301	255,926	-45,272	0.48
17	140,097	114,850	134,301	249,151	-109,054	0.46
19	471,814	149,050	134,301	283,351	188,463	0.53
B1				0	0	0.00
B4				0	0	0.00
B7				0	0	0.00
B9				0	0	0.00
Bil	92,854	122,850	134,301	257,151	-164,297	0.48
IRG				0	0	0.00
G&T	61,000	0	6,000	6,000	55,000	0.00
EXE	509,900	346,078	156,766	502,844	7,056	0.69
Total	2,012,700	1,135,228	968,572	2,103,800	-91,100	0.54

TABLE II

School #9

Grade	ISEP Funding	Personnel Expend.	Other Expend.	Total Expend.	Difference	Percent Pers.
K				0	0	0.00
11				0	0	0.00
14				0	0	0.00
17				0	0	0.00
19				0	0	0.00
B1	37,460	25,872	9,856	35,728	1,732	0.72
B4	98,322	67,905	23,371	93,776	4,546	0.72
B7				0	0	0.00
B9	64,118	44,282	16,882	61,164	2,954	0.72
Bil				0	0	0.00
IRG				0	0	0.00
G&T				0	0	0.00
EXE				0	0	0.00
Total	199,900	138,059	52,609	190,668	9,232	0.72

School #10

Grade	ISEP Funding	Personnel Expend.	Other Expend.	Total Expend.	Difference	Percent Pers.
K				0	0	0.00
11	359,380	301,725	68,794	370,519	-11,139	0.81
14	393,390	407,149	90,365	497,514	-104,124	0.82
17	444,657	394,386	85,169	479,555	-34,898	0.82
19				0	0	0.00
B1	362,426	292,283	35,496	327,779	34,647	0.89
B4	434,632	403,666	47,676	451,342	-16,710	0.89
B7	425,115	505,067	47,111	552,178	-127,063	0.91
B9				0	0	0.00
Bil	41,115	44,020	0	44,020	-2,905	1.00
IRG	96,444			0	96,444	0.00
G&T				0	0	0.00
EXE	274,041	305,570	27,748	333,318	-59,277	0.92
Total	2,831,200	2,653,866	402,359	3,056,225	-225,025	0.87

TABLE III
INSTRUCTION - KINDERGARTEN

Scl#	Funding	Pers.Exp.	Oth.Exp.	Tot.Exp.	Diffnce	%Pers
1				0	0	0.00
2	93,906	74,754	38,098	112,852	-18,946	0.66
3				0	0	0.00
4	149,742	161,044	19,475	180,519	-30,777	0.89
5	93,906	87,764	36,081	123,845	-29,939	0.71
6	131,976	115,427	20,706	136,133	-4,157	0.85
7	32,276	41,989	14,107	56,096	-23,820	0.75
8	154,818	125,750	134,301	260,051	-105,233	0.48
9				0	0	0.00
10				0	0	0.00

TABLE III
INSTRUCTION - GRADES 1-3

Scl#	Funding	Pers.Exp.	Oth.Exp.	Tot.Exp.	Difference	%Pers
1	36,547	36,502	6,899	43,401	-6,854	0.84
2	353,289	228,468	143,334	371,802	-18,513	0.61
3				0	0	0.00
4	408,110	230,238	115,313	345,551	62,559	0.67
5	231,465	213,631	88,253	301,884	-70,419	0.71
6	286,286	262,859	33,845	296,704	-10,418	0.89
7	67,234	133,761	14,107	147,868	-80,634	0.90
8	371,563	155,025	134,301	289,326	82,237	0.54
9				0	0	0.00
10	359,380	301,725	68,794	370,519	-11,139	0.81

TABLE III
INSTRUCTION - GRADES 4-6

Scl#	Funding	Pers.Exp.	Oth.Exp.	Tot.Exp.	Diffence	%Pers
1	104,058	104,459	14,976	119,435	-15,377	0.87
2	195,426	147,529	79,286	226,815	-31,389	0.65
3	208,116	219,420	46,473	265,893	-57,777	0.83
4	279,180	163,452	97,729	261,181	17,999	0.63
5	116,748	122,517	63,024	185,541	-68,793	0.66
6	131,976	128,308	14,250	142,558	-10,582	0.90
7	48,415	86,831	14,107	100,938	-52,523	0.86
8	210,654	121,625	134,301	255,926	-45,272	0.48
9				0	0	0.00
10	393,390	407,149	90,365	497,514	-104,124	0.82

TABLE III
INSTRUCTION - GRADES 7-8

Scl#	Funding	Pers.Exp.	Oth. Exp.	Tot.Exp.	Diffence	%Pers
1	268,012	113,914	27,211	141,125	126,887	0.81
2	158,371	149,661	64,253	213,914	-55,543	0.70
3	487,272	406,942	90,255	497,197	-9,925	0.82
4				0	0	0.00
5	97,459	86,197	59,925	146,122	-48,663	0.59
6	88,322	59,064	30,162	89,226	-904	0.66
7	11,205	68,235	14,107	82,342	-71,137	0.83
8	140,097	114,850	134,301	249,151	-109,054	0.46
9				0	0	0.00
10	444,657	394,386	85,169	479,555	-34,898	0.82

TABLE III
INSTRUCTION - GRADES 9-12

Scl#	Funding	Pers.Exp.	Oth.Exp.	Tot.Exp.	Diffence	%Pers
1	570,796	767,443	134,325	901,768	-330,972	0.85
2	580,694	357,965	235,595	593,560	-12,866	0.60
3				0	0	0.00
4				0	0	0.00
5				0	0	0.00
6				0	0	0.00
7				0	0	0.00
8	471,814	149,050	134,301	283,351	188,463	0.53
9				0	0	0.00
10				0	0	0.00

TABLE III
RESIDENTIAL - GRADES 1-3

Scl#	Funding	Pers.Exp.	Oth.Exp.	Tot.Exp.	Diffence	%Pers
1	42,638	50,302	8,655	58,957	-16,319	0.85
2	39,085	39,085	15,857	54,942	-15,857	0.71
3				0	0	0.00
4				0	0	0.00
5				0	0	0.00
6				0	0	0.00
7				0	0	0.00
8				0	0	0.00
9	37,460	25,872	9,856	35,728	1,732	0.72
10	362,426	292,283	35,496	327,779	34,647	0.89

TABLE III
RESIDENTIAL - GRADES 4-6

Scl#	Funding	Pers.Exp.	Oth.Exp.	Tot.Exp.	Diffence	%Pers
1	130,072	208,500	27,577	236,077	-106,005	0.88
2	47,587	47,587	19,306	66,893	-19,306	0.71
3	260,145	211,700	56,775	268,475	-8,330	0.79
4				0	0	0.00
5				0	0	0.00
6				0	0	0.00
7				0	0	0.00
8				0	0	0.00
9	98,322	67,905	25,871	93,776	4,546	0.72
10	434,632	403,666	47,676	451,342	-16,710	0.89

TABLE III
RESIDENTIAL - GRADES 7-8

Scl#	Funding	Pers.Exp.	Oth.Exp.	Tot.Exp.	Diffence	%Pers
1	279,180	338,484	59,569	398,053	-118,873	0.85
2	63,450	40,616	25,742	66,358	-2,908	0.61
3	507,600	413,000	110,205	523,205	-15,605	0.79
4				0	0	0.00
5				0	0	0.00
6				0	0	0.00
7				0	0	0.00
8				0	0	0.00
9				0	0	0.00
10	425,115	505,067	47,111	552,178	-127,063	0.91

TABLE III
RESIDENTIAL - GRADES 9-12

Scl#	Funding	Pers.Exp.	Oth.Exp.	Tot.Exp.	Diffence	%Pers
1	523,462	488,260	116,127	604,387	-80,925	0.81
2	285,525	116,411	115,841	232,252	53,273	0.50
3				0	0	0.00
4				0	0	0.00
5				0	0	0.00
6				0	0	0.00
7				0	0	0.00
8				0	0	0.00
9	64,118	44,282	16,882	61,164	2,954	0.72
10				0	0	0.00

Question 3. What amount did the school actually spend to provide the programs?

Finding 3: Eight of the ten sampled schools spent more on the provision of their respective education programs than was generated by the ISEP formula.

The column entitled "Tot.Exp." in Table I represents the total amount of expenditures made by each school to provide its respective overall education program. The total amount of program expenditures for each school is further divided into personnel expenses (Pers.Exp.) and other costs (Oth.Exp.)

Table II identifies such expenditures for each of the ISEP funded programs according to each of the ten sampled schools. For example, school number one expended \$43,401 in providing its instruction program for grades 1-3, while ISEP provided \$36,547 for the same grade levels.

Table III reflects such expenditures for each school according to specific ISEP funded programs. For example, school number two expended \$112,852 in providing its Kindergarten program, while ISEP actually provided \$93,906. School number eight expended \$260,051 in providing its Kindergarten program, while ISEP actually provided \$154,818.

Question 4. Did the school spend more on ISEP programs than was generated through the ISEP formula? If yes, what was the source of the additional funds?

Finding 4.A: Eight of the ten schools actually expended additional non-ISEP generated funds to provide education activities which are required to meet the education programs originally intended to be funded by ISEP.

As indicated previously, Table I provides an overall school financial summary for each of the ten sampled schools. The "funding" column represents the total level of ISEP funding provided to each of the ten schools. Personnel and Other expenses/expenditures are identified along with the amount of total expenditures for each school. The expense columns represent the amounts actually expended by each school to provide its total education program. Also shown are the amounts each school expended above and beyond the ISEP funding amounts and the percent of each school's total expenditures which was identified as personnel costs.

It can be seen from Table I that school number one received an amount of \$2,364,700 in ISEP funds for the 1989-90 school year. An amount of \$2,457,967 was expended for personnel costs and \$439,773 was expended for other costs. School number one expended a total of \$2,897,740 in

providing its total education program. Additional revenues in the amount of \$533,040 were obtained to supplement the ISEP funds.

For school number one, 85% of the total expenditures (\$2,457,967) was expended for personnel services within the school's overall program.

It can also be seen from Table I that the cost of personnel services for this sample of ten schools ranged from 54% to 88% of the total program expenditures. Specifically, five or 50% of the ten sampled schools expended more than 80% of their budgets for personnel costs.

Table IV shows the additional sources of funds used by the schools. For example, in addition to the basic ISEP funding, school number one received chapter I, exceptional education, Title V, state and other funds. In addition to the basic ISEP funding, school number two received exceptional education funds. Schools number six, number seven and number eight used a significant amount of Tribal funds to supplement their ISEP funding.

Finding 4.B: It can be seen from Table IV that not all schools received outside or competitive funds in addition to the ISEP funds. The results of the BPQs and the on site visitations indicated that most schools were supplementing their ISEP funding levels, but that some schools were not organized or structured in a manner which allowed an effective or successful pursuit of outside funding sources. However, in at least three instances, tribes were required to augment the funds to meet the needs of their education programs.

Question 5. What academic standards did the school elect to meet for accreditation purposes? What residential standards were in effect at the school?

Finding 5.A: Table V shows the academic standards being pursued by each of the ten schools.

Finding 5.B: In many instances, Bureau standards were met by using other funds (see Tables IV and V).

Finding 5.C: The presence of such other funds which allowed general compliance with standards may have partially determined the make up of the respondents.

The BPQ and on-site visits indicated that many activities are necessary to provide home living, security, or personal development services that meet the special developmental needs of the students who are totally under Federal care 24 hours a day.

TABLE IV
ADDITIONAL FUNDING SOURCES BY SCHOOL

Scl#	A	B	C	D	E	F	G
1	no	no	yes	yes	yes	yes	yes
2	no	no	no	yes	no	no	no
3	no	no	yes	yes	yes	yes	no
4	no	no	no	no	no	no	no
5	no	no	no	yes	no	no	yes
6	yes	no	no	no	no	no	no
7	yes	no	no	yes	no	yes	yes
8	yes	no	no	no	yes	yes	yes
9	no	no	no	no	no	no	no
10	no	no	no	yes	no	no	yes

A=Tribal Funds
 B=Contract Support Funds
 C=Chapter I Funds
 D=Exceptional Education Funds
 E=Title V (Indian Education Act) Funds
 F=State Funds
 G=Other Funds

TABLE V
ACADEMIC AND RESIDENTIAL STANDARDS NOT MET

Scl#	Stands	Academic Stands Not Met	Res St Not Mt
1	BIA	VII-VIII-XII	V
2	Region	XIII	IV
3	BIA	none	IV
4	BIA	XIII-XVI-XI	N/A
5	State	None	N/A
6	Region	XIII-XV-XVI	N/A
7	BIA	III-IV-XIII-XV-XVI-XVII	N/A
8	State	II-III-IV-VII-VIII-XIII-XIV-XVI	N/A
9		N/A	I-IV
10	BIA	XIII	none

Standard

I Philos Goals
 II Admin. Requir.
 III Needs Assess.
 IV Curric. Devel.
 V Min. Programs
 VI Kindergarten
 VII Elementary
 VIII Jr. High
 IX Secondary
 X Grading
 XI Student Promotion
 XII Graduation
 XIII Library/Media
 XIV Text books
 XV Counseling
 XVI Student Activ.
 XVII Program Evalua.

Standard

I General
 II Elem. Dorm.
 III Second. Dorm.
 IV Homeliving
 V Space/Privacy

Also, the current established program funding criteria limit program innovations to meet the appropriate demands for serving student needs, especially when limited enrollment requires diverse specialized services. The limited funding is usually not enough to even meet the basic minimum requirements of program services and do not address enrichment and extra curricular activities, transportation costs, increasing on-going staff development, and personnel for diverse specialized services.

Question 6. Were there any academic or residential standards not being met?

Finding 6.A: Table V shows the academic and residential standards not being met for each of the ten schools.

Finding 6.B: The results of the on site visitations indicated that additional problems existed in several areas:

1. Health services to students were limited because of (1) the costs of transporting students to health facilities and (2) inadequate BIA-IHS-public school coordination in the provision of services to the student clients.
 2. Safety/Security services to students and school facilities were limited due to unclear procedures related to the (1) protection of students and (2) protection of buildings.
 3. Access to government services/prices for items such as buses, telecommunications, supplies/materials, and other services such as GSA contract air carriers, etc. was not available to all schools, particularly the contract or grant schools.
 4. Teacher recruitment continues to be a problem for schools.
-

Question 7. Were there any shortfalls in transportation or facilities management funding levels?

Finding 7.A: Eight of ten schools spent more funds on essential transportation of students related to academic and home living activities than was generated by the transportation formula established under the 25 CFR. The range in the shortfalls was from 7% to 240% and for the ten schools, 33% spent 33% more than the allocation.

The on site visitations found several reasons for this situation:

1. The current formula for student transportation is inadequate because:

a. miles for extra curricular activities, emergency, health, personal, bereavement, and holidays are not funded.

b. current per mile amount is insufficient

c. costs or miles for maintenance of buses is not funded

d. bus related communications costs are not funded

e. inaccessibility/Unavailability of GSA vehicles

f. additional students after count week

Finding 7.B: Transportation expenditures may not necessarily include the transportation costs for extra curricular and sports activities, emergency health care services and transportation services for students. The costs for these necessary services are usually borne by the use of private autos, administration vehicles and volunteer drivers, or are charged directly to instructional program budgets.

Finding 7.C: Deficits were found in the facilities management programs. The on site visitations found several reasons for this situation:

1. The facility management operations and maintenance formula (O and M) formula did not consider janitorial services for kitchen/dining/residential facilities and provided funds for only 190 days.

2. Funds for extended school day activities were not considered by the O & M formula.

3. Costs of security services were not provided by the O & M formula on a year-round basis.

4. Costs for home-living appliances and furnishings purchases and repairs and maintenance were not considered by the O & M formula.

Finding 7.D: The Facility Improvement and Repair (FI&R) backlog for a given school represents those facility maintenance and repair projects which are needed at the school but have not yet been funded. The results of the on-site visitations indicated the following:

1. Funds from the O & M formula are not intended to be used for these FI&R projects.

2. Some schools are forced to correct some critical health-safety deficiencies on the backlog from funding sources other than the FI&R funds. Such unfunded FI&R backlog items jeopardize the overall accreditation of the school.

3. Table VI shows the FI&R backlog reported by six (6) of the sampled schools. The total amount needed for these six schools was \$5.8 million. Of the \$5.8 million, an expenditure of \$399,536, at an

TABLE VI

FACILITY IMPROVEMENT AND REPAIR BACKLOG

Schl	No. of Items	Less Than \$5,000	No. of Items	Less Than \$10,000	No. of Items	Greater Than \$10,000	Total Costs
#1	25	\$60,244	8	\$52,575	7	\$456,293	\$569,112
#2	29	\$81,760	6	\$52,792	6	\$731,856	\$866,408
#3	64	\$150,716	9	\$74,300	16	\$949,000	1,174,016
#4	4	\$6,300	4	\$29,300	12	1,182,200	1,217,800
#5	5	\$13,050	5	\$36,000	12	\$439,400	\$488,450
#6	167	\$87,466	20	\$148,117	36	1,289,954	1,525,537
Total	294	\$399,536	52	\$393,084	89	5,048,703	5,841,323
Ave. Cost Per Item.		\$1,359		\$7,559		\$56,727	

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average cost of \$1,359, would eliminate 294 of the total 435 items on the backlog.

4. Portions of some dormitories were not fully utilized and, subsequently, not funded to correct safety compliance factors or to provide minimum maintenance services. Factors included roofs, alarm systems, and heating systems. Such inattention to the areas within a dormitory will lead to further deterioration of the facility and prohibits the planning for any enrollment increases or changes in the dormitory program.

5. The structure and usage of the school facilities are not sufficient to serve the purpose and changing needs of the education programs and growth trends in a timely manner.

CONCLUSIONS

The ISEP working committee concluded the following:

1. The ISEP basic Weighted Student Unit (WSU) dollar values have not increased at a rate sufficient to provide the funding level required under the statutorily mandated teacher salary schedule.

2. Bureau funded schools should not be required nor expected to rely upon competitive grants to support basic school operations.

3. ISEP's funding level and calculating procedures do not provide the funds required to meet the mandated basic costs of the education and home-living programs as set out by the standards of the Bureau or to meet the requirements of the statutes and policies of the Administration.

4. The current standards do not support a quality program geared toward the needs of Indian students, either academically or in the residential area. The standards are based upon restraint of costs, not provision of services. Particularly as it relates to home living situations, the standards do not support the provision of minimal activities necessary to protect and nurture Indian students under the care of the Federal government. This is particularly acute due to the special needs of many Indian students who are at risk and require residential care.

5. The BIA basic academic and dormitory standards fail to address the needs of the students. As a result, costs of the basic academic/residential living programs either are not being met, or are being met by funds originally intended and provided for other purposes thus denying students those other services.

6. Many Bureau funded schools are isolated, serve small communities, and have low enrollments; thus, their costs for providing basic programs are high because of the limited number of students.

7. The fragmented and untimely delivery of non-education Bureau administrative services, such as procurement, personnel, finance, and facilities management, exacerbate this negative situation and prohibit effective education budget and program planning.

RECOMMENDATIONS

The ISEP Working Committee strongly recommends that changes in ISEP program weights should not be made unless the dollar value of the WSU in the ISEP program is increased to the recommended funding level. Recommendations are grouped into the following categories:

A. To modify the academic and residential standards to reflect the current needs of students. The committee recommends that, at a minimum, the following actions be implemented immediately:

1. Adopt a new standard on teacher/teacher aide/dormitory personnel training and use summers and other periods to conduct such training.

2. Reduce the student-staff ratio of academic and residential counselors and require the presence of health professionals trained in working with at-risk students.

3. Require that funds generated for academic and residential purposes shall be expended in the areas as primarily designated, unless the local school board approves a reprogramming pursuant to Section 1129 of PL 95-561.

4. Revise the National Dormitory Criteria related to programs and services for at-risk students that the Bureau and Tribes are presently responsible for in residential centers. Based on the special needs of the unique student population currently enrolled in residential programs, the committee recommends that the objectives appearing in Exhibit IV be adopted and implemented in full.

B. To modify the ISEP to provide sufficient funds to meet the full expenses of all activities basic to the provision of basic educational and home living programs in Bureau funded schools, without reliance on supplemental funding sources designed to meet other needs. The committee recommends that, at a minimum, the following actions be implemented immediately:

1. Due to the development of many kindergarten programs into full-day programs, the pattern of kindergarten expenditures with the sampled schools and the current emphasis on school readiness as stated in the National Goals for Education, change the ISEP weight for kindergarten pupils to 1.20.

2. Add a weight of 1.0 to ISEP for a preschool program (ages 3-4) to support the national education goal on school readiness.

3. Increase the base funding level per weighted student unit (WSU) based on the following assumptions:

- a. Increases related to the statutorily mandated salary schedule should be recognized in calculating the WSU amount in ISEP. The amount of the increase above the Bureau schedule was 22 percent for the third year phase-in above the 1989-90 level.
- b. For the non-teacher salary portion of the expenditures, the value of the WSU should increase consistent with the current services inflator. The assumed inflation rate was 4.5 percent per annum.
- c. The base amount of the WSU should be increased by an amount equal to the underfunding of regular educational programs from non-ISEP funds. Results of the field study indicated that the schools were underfunded from ISEP by 11 percent.
- d. The profile of proportional expenditures in public schools can be used in calculating the effect of the statutorily mandated salary schedule and in projecting a WSU for ISEP. (Source: Local School Budget Profile Study, Educational Research Service, Arlington, VA, September, 1990, published in School Business Affairs, September, 1990.)
- e. Salaries for teachers, counselors and librarians in the public schools represent approximately 60 percent of total expenditures for current operations. Current operations in the public schools include custodial and maintenance services provided in Bureau funded schools by BIA facility management. Based on expenditure patterns in the public schools and assuming that BIA expenditure categories funded by ISEP represent 80 percent of current expenditures reported by public schools, BIA expenditure patterns for teacher, counselor and librarian salaries represent 75 percent of the BIA school expenditures.
- f. The projected increase in BIA teacher salaries needed for full implementation of the statutorily mandated Department of Defense (DOD) salary scale for the 1991-92 school year requires a 22 percent increase over the base 1989-90 school year.
- g. The remaining 25 percent of the BIA expenditures are increasing at a rate no less than an annual inflation rate of 4.5 percent.
- h. Assuming that the underfunding of 11 percent in FY 1990 in the sampled schools was representative of all BIA funded schools, the WSU amount for FY 1990 should have been \$2,817 (\$2,538 * 111%). For the 1992-93 school year the WSU funding amount should be \$3,499 using the following calculation process:

For the last two years (FY 1991 and FY 1992), the DOD teacher salary adjustment would require an additional 16.5 percent in funding (22% increase times the 75% portion of ISEP expenditures) plus an inflation adjustment of 2.25 percent (4.5% per year times 25% portion of ISEP expenditures). The total adjustment for the last two years would be 18.75 percent and the FY 1992 WSU amount should have been \$3,345 (\$2,817 * 118.75 percent).

For the 1992-93 school year, the WSU amount should be \$3,499 (\$3,345 * 104.6%). NOTE: If the DOD salary increase should exceed 4.6 percent for the 1992-93 school year, the methodology discussed above should be used to adjust the WSU base amount for the 1992-93 school year.

In successive years, 75 percent of the WSU amount increase should be based on the statutorily mandated increase and 25 percent of the increase should be based on the OMB current services inflation level.

4. Using existing statutory authority, the Bureau should take immediate action to develop and recommend weights for vocational education, extended school year, and drop-out prevention programs.

5. Modify instructional weights to recognize the additional costs of providing services for disabled students beginning in FY 1993. Also, modify dorm weights to recognize the additional costs of providing services for disabled students by providing additional funds as generated by using the instructional weights to recognize the special services that must be provided for these residential students.

6. Modify the student transportation formula to include miles for emergencies, health services, extra curricular activities and two additional roundtrip home visits for residential students. Also, a factor for vehicle maintenance, including a provision for road conditions, should be added.

7. Modify dorm weights in the ISEP to reflect the following:

a. Grades 1-6 : 1.9
Grades 7-12: 1.4

b. Such proposed dorm weights were based on data collected from four BIA operated dormitories visited by committee members. The needed weights were calculated assuming a WSU amount of \$3,499. Consistent with findings in the academic programs, expenditures for residential programs within the sampled schools exceeded the ISEP allocations for the basic residential program during the 1989-90 school year. Additionally, the ISEP committee is recommending that the residential standards be revised to reduce staff/student ratios in Bureau funded dormitories and to increase the numbers of certified counselors in the regular residential

programs. This would also include the upgrading of personnel standards/qualifications for positions in the residential programs.

- c. The following calculations were made to project residential weights needed to (1) support continuance of 1989-90 program expenditures adjusted for inflation at 4.6 percent per year, (2) increase the number of certified counselors to meet the proposed new standards and adjust counselor salaries by percentages equivalent to increases occurring in the DOD counselor pay scale since FY 1990 and (3) double personnel expenditures for residential staff, excluding counselors, administrative and support staff, to meet the new proposed staff/student ratios.

The following steps were used:

1. Residential personnel costs were identified for counselors, administrative and support staff, and other residential staff for grades 1-6 and 7-12 programs.

1989-90 Costs

Grade	# Students	Counselors	Admin/Supp	Other
-----	-----	-----	-----	-----
1-6	196	\$82,623	\$104,836	\$467,064
7-12	540	\$162,897	\$247,886	\$968,319

2. Projected costs for the 1992-93 school year were derived by: increasing existing counselor salaries by 26.6% (22% DOD increases and one 4.6% cost of living increase); adding \$200,000 salary and fringe needed to achieve the new proposed counselor ratios with 33% added to 1-6 programs and 67% added to 7-12 programs; increasing administration and support costs by 13.8% (three years times 4.6% cost of living increase); and increasing the cost of other staff by a factor of 2.138, reflecting the need to double staffing needed to meet the new proposed staffing and to provide a three year cost of living adjustment.

1992-93 Projected Costs

Grade	#Students	Counselors	Admin/Supp	Other
-----	-----	-----	-----	-----
1-6	196	\$170,601	\$119,303	\$998,583
7-12	540	\$340,228	\$282,094	\$2,070,266

C. Other Recommendations - The ISEP working committee recommends the following:

1. The Director, OIEP should request the Assistant Secretary for Indian Affairs to negotiate with the Office of Construction Management to:

- a. Modify the current O & M formula to include O & M funds for those facilities which may have been temporarily vacated by the education or residential program, but are under consideration by the school for use in the upcoming school year.
- b. Increase the amount available to schools from the O & M facilities account to offset decreases over the past decade.
- c. Allow each school to receive a specified amount of funds to correct selected FI & R projects with a cost of less than \$5,000 or \$10,000.

2. The Director, OIEP should institute either a formula or flat amount for schools for replacement of academic or residential equipment which is either consumable or associated with new programs.

3. The Director, OIEP should immediately request the Assistant Secretary for Indian Affairs to implement the funding carry over authority in PL 95-561 for BIA operated schools.

4. The Director, OIEP should immediately request funding for the Early Childhood Program Grants as authorized by Section 1141 of PL 95-561.

5. The Director, OIEP should negotiate with the Director, Indian Health Services to establish a minimum of four (4) regional psychological care centers to serve Indian students with psychological and rehabilitative needs.

D. To institute as a policy, the type of review and oversight committee used in the current study of the Bureau's formula and funding mechanisms should be conducted on a annual basis. The committee recommends that program and budget information be collected by the Bureau on all schools and a school level data base be created for feedback purposes to schools and Tribes. Any future study groups should focus on factors relating to isolation, staff development/training, non controllable costs (e.g. fuel costs), facilities and budget formulation.

EXHIBIT I

INDIAN SCHOOL EQUALIZATION PROGRAM
WORKING COMMITTEE

EXHIBIT I

INDIAN SCHOOL EQUALIZATION PROGRAM
WORKING COMMITTEE

Bob Arnold
Senate Select Committee on
Indian Affairs
Washington, DC

Forbis K. Jordan
Arizona State University
Tempe, AZ

Betty Walker
Minneapolis Area Education
Office
Minneapolis, MN

Val Cordova
Southern Pueblos Agency
Education Office
Albuquerque, NM

Alan Lovesee
House Education and Labor
Subcommittee
Washington, DC

Mike Bailey
Jones Academy
Hartshorne, OK

Angela Barney-Nez
Navajo Area School Boards
Association
Window Rock, AZ

Nell Rogers
Mississippi Band of Choctaws
Philadelphia, MS

Marcel Kerkmans
Alamo Navajo School
Magdalena, NM

Doug Weaver
Mississippi Band of Choctaws
Philadelphia, MS

Dennis Schutt
Marty Indian School
Marty, SD

Bob Swan
Rocky Boy Tribal School
Box Elder, MT

Bobby Dean
Shiprock Agency Education
Office
Shiprock, NM

Gerald Gray
Chemawa Indian School
Salem, OR

Jim Martin
Office of Indian Education
Programs
Washington, DC

EXHIBIT II

SCHOOL BUDGET AND PROGRAM QUESTIONNAIRE



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
WASHINGTON, D.C. 20245

REPLY REFER TO

Policy, Oversight &
Evaluation Code - 530

JAN 23 1991

Dear School Superintendent:

The Office of Indian Education Programs has established a small working committee to study the effectiveness of the Indian School Equalization Program (ISEP) formula in providing funds adequate enough for schools to meet their respective academic and residential standards. The committee has representatives from Bureau and Tribal Schools, Tribal organizations, Congressional Offices and this office. After studying the effects of the current ISEP formula, the committee will identify and recommend potential changes or modifications to the formula.

As part of its study, the committee intends to send small teams to a sample of 15-20 schools for on-site visits. Basically, the on-site visits will review the academic standards the school has elected to meet for accreditation purposes, the Bureau's residential standards, actual program expenditures and program staffing patterns. The 1989-90 school year has been selected for purposes of the study. The purpose of the visits is to collect information on the current effects of the ISEP formula and to identify any needed amendments. The visits are not designed to review programmatic elements or to evaluate school performance.

Your school has tentatively been selected to participate in the study. The on-site visits will probably take place during April and May, 1991. Your school's participation in the study is totally voluntary.

If you wish to receive further consideration as a participant in the study, please complete the attached documents and return them to the following address no later than February 21, 1991:

Dr. Jim Martin
Chief, Planning, Oversight and
Evaluation Staff
Office of Indian Education Programs
Bureau of Indian Affairs
Mail Stop 3530 - MEB
1849 C Street, NW
Washington, D.C. 20240

In early March, 1991 a final selection of 15-20 schools will be made for the April-May on-site visits and you will be notified. If selected, the on-site visitation team will contact you to arrange a convenient date for the on-site visit. The visitation team will have reviewed your school's documentation prior to its arrival and should complete its on-site visitation within a two day period.

Thank you for your cooperation and please contact me at 202-208-3550 (telephone) or 202-208-3312 (telefax) if you have any questions

Sincerely,

Jim Martin

Acting Director, Office of Indian Education
Programs

Attachments

Analysis of ISEP Funded Programs

OVERVIEW

Section 1123 of P.L. 95-561, as amended, provides the authority for the Indian School Equalization Program formula. The actual formula is found within the IS EFR 39 - The Indian School Equalization Program. Each year, ISEP funds are distributed to all Bureau funded schools through the ISEP formula based on a student count made at each school.

In order to provide appropriate recommendations concerning the formula, the ISEP working committee proposes to answer the following questions for a sample of BIA-funded schools/dormitories for FY 1990:

1. What were the ISEP funded "programs"?
2. What level of funding did the ISEP formula provide to the school for each ISEP program and to meet academic and residential standards?
3. What did the school actually spend to provide the programs?
4. Did the school spend more on ISEP programs than was generated through the ISEP formula? If yes, where did the additional funds come from?
5. What academic standards did the school elect to meet for accreditation purposes? What residential standards were in effect at the school?
6. Were there any academic or residential standards not met?
7. Were there any shortfalls in transportation or facilities management funds?

In order to compare school-level FY 1990 ISEP funding to the actual costs of providing the ISEP supported academic, residential and supplemental programs, the ISEP working committee has developed the attached Exhibits to be completed.

Exhibit I compares the level of FY 1990 ISEP funding to the actual costs of providing the ISEP supported academic, residential and supplemental programs.

Exhibits II and III identify any academic or residential standards not met for FY 1990.

Exhibit IV compares the level of FY 1990 facilities management and transportation funding to the actual costs of providing your FY 1990 facilities management and student transportation programs.

INSTRUCTIONS FOR COMPLETING EXHIBIT I

1. Column A of Exhibit I shows the programs currently funded through ISEP as identified by the ISEP allotment calculation form for FY 1990. Based on the ADM of your school during the FY 1990 student count, your school generated specific WSUs and corresponding funding amounts for each ISEP program. These final FY 1990 funding amounts are identified under Column B for each program.
2. Column C3 requests you to identify the total actual costs/expenditures your school incurred to provide each program. Column C1 and C2 identify the costs as "personnel" and "all other" costs. Your personnel costs for each ISEP funded program are to be listed in Column C1. Your other costs for supplies, food, materials, staff travel, equipment, etc. for each ISEP program are to be listed in Column C2. Column C3 equals the total personnel (C1) and all other (C2) costs for each ISEP program. Before attempting to complete Exhibit I, refer to items 3 and 4 (below) on attachments to Exhibit I.
3. It is acknowledged that a school's final FY 1990 budget may not reflect expenditures in the same categories as the ISEP formula did in generating funds. For example, ISEP generates separate amounts of funds for Instruction-Kindergarten, Instruction-Grades 1-3, Instruction-Grades 4-6, and Instruction-Grades 7-8. Most elementary schools, however, developed an overall FY 1990 instructional budget covering all grades K-8. In order to properly analyze a school's expenditures in relation to how funds were actually generated, a breakdown of FY 1990 expenditures by each ISEP funded program level is necessary.

To assist a school in completing Exhibit I, a series of Attachments to Exhibit I is enclosed. All necessary Attachments to Exhibit I for your school have been enclosed. A school should first complete all necessary Attachments to Exhibit I and then use the amounts calculated on the Attachments in completing Exhibit I for the school.

In addition, a completed sample of Exhibit I and its attachments for a school is enclosed. In the sample, the attachments were completed first. Exhibit I was then completed using the amounts from the attachments.

4. Attachments - Section I of each Attachment for Exhibit I allows the school to identify all personnel and personnel costs associated with providing the particular ISEP funded program. Section II allows the school to identify all "other" costs for that particular program.

NOTE: Some "personnel" costs for an ISEP funded program, such as the cost of a Kindergarten teacher can be readily identified. However, some "personnel" costs for the Instruction-Kindergarten program, such as the Kindergarten program's, "share" of the Librarian's salary, may not be readily identifiable. If the school cannot identify such "personnel" or "all other" costs specifically for the ISEP funded program, an estimated cost may be identified by pro rating the total school's cost across all students i.e. on a per pupil pro rated basis.

A suggested proration method for the food service, library/media service, support staff service and administration programs is provided in completed sample of Exhibit I.-

5. Under Column D of Exhibit I, please enter the difference between the amounts entered for Column B and Column C3 for each ISEP program. Such amounts may be positive (+) or negative (-) amounts.

6. If the amount entered in Column D is negative (-), it means that you expended more funds for the ISEP program than you generated through ISEP. Column E asks you to identify the additional source of the funds you used in providing your program. In completing Column E, please use the following codes for the additional source of funds:

- A = ISEP funds
- B = Tribal funds
- C = Contract Support or Administrative Cost Funds
- D = Chapter I
- E = Exceptional Education funds (P. L. 94-142)
- F = Title V (Indian Education Act) funds
- G = State funds
- H = Other funds (specify: _____)

INSTRUCTIONS FOR COMPLETING EXHIBIT II

1. Attached to Exhibit II is a copy of the current academic and residential standards found in 25 CFR 36.
2. Using the numbering system within the attached copy of the 25 CFR 36 standards, enter or reference under Column A any academic standard you were unable to meet during FY 1990 with ISEP funds. List only those standards you did not meet. Under Column B, list the estimated cost needed to meet each standard identified under Column A.
3. Since ~~some~~ schools may have opted to follow other state, regional or tribal academic standards, Column C allows the school to identify any such standards not met with ISEP funds for FY 1990.
4. Under Column D, list the estimated cost needed to meet each standard identified under Column C.

INSTRUCTIONS FOR COMPLETING EXHIBIT III

1. Please refer to the residential standards contained within 25 CFR 36.11. A copy of the current residential standards is attached to Exhibit II.

2. Using the numbering system within the attached copy of residential standards, enter or reference under Column A any standard you were unable to meet during FY 1990 with ISEP funds. List only those residential standards you did not meet. Under Column B, list the estimated cost needed to meet each residential standard identified under Column A.

3. Since some schools may have opted to follow other or additional state, regional or tribal residential standards, Column C allows the school to identify any such standards not met with ISEP funds for FY 1990.

4. Under Column D, list the estimated cost needed to meet each residential standard identified under Column C.

INSTRUCTIONS FOR COMPLETING EXHIBIT IV

1. Columns A, B, C and D refer to the student transportation program for your school. The level of ISEP-generated student transportation funds for FY 1990 has been entered in Column A.
2. Column B requests you to identify your program's actual expenditures/costs for FY 1990. Column B costs should include all expenditures for personnel, vehicle leases, fuel, etc.
3. Under Column C, please enter the difference between the total amounts entered for Columns A and B. Such amounts under Column C may be positive (+) or negative (-).
4. If the amount entered in Column C is negative (-), it means that you expended more funds for the student transportation program than you generated through the student transportation formula. Column D asks you to identify the additional source of funds you used in providing your student transportation program. In completing Column D, please use the following codes for the additional sources of funds:

A = ISEP funds

B = Tribal funds

C = Contract Support or Administrative Cost Funds

D = Chapter I

E = Exceptional Education funds (P. L. 94-142)

F = Title V (Indian Education Act) funds

G = State funds

H = Other funds (specify: _____)

5. Columns E, F, G and H refer to the Facility Management Operations and Maintenance (O and M) program for your school. Under Column E, enter the amount of FY 1990 Facility Management Operations and Maintenance funds provided to the school.

6. Column F requests you to identify your program's actual expenditures/costs for FY 1990. Column F costs should include all expenditures for personnel, supplies, materials, fuel, etc.
7. If the amount entered in Column G is negative (-), it means that you expended more funds for the facility management operation and maintenance (O & M) program than you generated through the formula. Column H asks you to identify the additional source of funds you used in providing your facility management program. In completing Column H please use the same codes in item 4 above to identify the additional sources of funds.

BEST COPY AVAILABLE

Model:
 Total FY 1990 ISEP Funding:

A	B LEVEL OF FY 90 ISEP FUNDING	C COST OF TOTAL FY 90 PROGRAM:			D Difference BETWEEN COLUMNS B AND C3 (+ or -)	E SOURCE OF ADDITIONAL FUNDS
		1 PERSONNEL EXPENDITURES	2 ALL OTHER EXPENDITURES	3 TOTAL EXPENDITURES		
SEP FUNDED PROGRAM						
INSTRUCTION						
Kindergarten						
grades 1-3						
grades 4-6						
grades 7-8						
grades 9-12						
BOARDING						
grades 1-3						
grades 4-6						
grades 7-8						
grades 9-12						
SUPPLEMENTAL						
Bilingual						
IRC						
Gifted/Talented						
EX. CHILD						
Ex. Child Programs						
School Board ADJ.						
Total						

Exhibit I - Attachment _____

ISEP Funded Program/Grade Level(s): _____

Section I - _____ Personnel

Title	Grade Taught	FTE	Fy 90 Salary	Fy 90 Fringe	Educ. Level (Bs, BS+, MS, MS+, Dr)	Total Yrs of teach. Exper.	Yrs. of teaching exper. at this school	Funding Source
1.								
2.								
3.								
4.								
5.								
6.								
7.								
8.								
9.								

Total Salary and Fringe Ben. Costs _____ (Enter on Exhibit I)

Section II - _____ All other expenditures

	Actual Costs	Prorated Costs
a. Staff travel:	_____	_____
b. In-services:	_____	_____
c. Equipment:	_____	_____
d. Supp/Materials:	_____	_____
e. Activities:	_____	_____
f. Contracts:	_____	_____
g. _____ (other)	_____	_____
h. _____ (other)	_____	_____
i. Library Serv:	_____	_____
j. Food Serv:	_____	_____
k. Support Staff Serv:	_____	_____
l. Administration:	_____	_____

Total Actual and Prorated Costs of a. through l.: _____ (Enter on Exhibit I)

School: _____
Location Code: _____

EXHIBIT II

Academic Standards Compliance

A	B
Academic Standards in 25 CFR 36 Not Met with ISEP Funds	Estimated Cost Needed To Meet Standard
C	D
Other State, Regional or Tribal Academic Standards Not Met with ISEP Funds	Estimated Cost Needed To Meet Standard

45

337

School: _____
Location Code: _____

EXHIBIT III

Residential Standards Compliance

A	B
Residential Standards in 25 CFR Not Met with ISEP Funds	Estimated Cost Needed To Meet Standards
C	D
Other State, Regional or Tribal Residential Standards Not Met with ISEP Funds	Estimated Cost Needed To Meet Standard

hool:
cation Code:

Facility Management and Transportation Costs Analysis

[illegible]

EXHIBIT III

ON SITE SCHOOL VISITATION GUIDE

SCHOOL VISITATION GUIDE

Prior to the visit, the Central Office will write a letter to the schools explaining the purposes of the visit--to verify and clarify information about the school submitted by the BIA and the school, to gather any information needed about the school, and not to make value judgments about the use of funds, organization or management of the school, or the school's curriculum.

Prior to the visit, each team will be provided with background information about the school. The team will meet in advance, review the materials, and identify specific areas to be reviewed by members of the team. If individual team members assume responsibility for specific areas or work as a team, the final report is a "team report."

Interviews should be conducted with the school board, school principal or superintendent, area or agency line officers, teachers, teacher aides, counselors, dormitory aides, school clerks, support staff, other school employees, students, patrons, and tribal leaders. If feasible, interviews should be conducted with officials in the local public schools. (The principal should not be present during interviews with other school staff.)

Focus of the Team Visit

During the visit, answers should be secured on a variety of items. Team members should ask the questions of a sufficient number of persons to be comfortable with the accuracy of the responses. The team is to validate basic information about the: school program(s), students, dormitory residents and staff,

transportation, operations and maintenance, administrative support structure, other programs depending on school site, and availability and sufficiency of the educational programs and basic support services provided to students.

Basic Information

Each team should review the school's materials and gather information about the following:

1. Teachers' level of training, recent education, tenure status, and career plans.
2. Adequacy of the staff for the school's program.
3. Facilities' history, conditions, custodial and maintenance program, and needs/adequacy for the current and projected educational program.
4. Educational programs' sufficiency, conformance with standards, unmet needs, and consistency with the needs of the students. Identify any innovative procedures or programs that could be replicated in other BIA-related schools.
5. Dormitory programs' sufficiency, conformance with standards, unmet needs, and consistency with the needs of the students. Identify any innovative procedures or programs that could be replicated in other BIA-related schools.
6. Transportation programs' sufficiency, conformance with standards, unmet needs, and consistency with the needs of the students. Identify any innovative procedures or programs that could be replicated in other BIA-related schools.

7. Relationships, services received, and cooperation with other BIA divisions and Federal and State agencies.

8. Adequacy of support for the programs including such items as counseling services, supplies and equipment, food service program, and community services.

9. Past, current, and potential cooperative activities with the public schools.

10. Relationships with the community, i.e., "a part of" or "apart from" the community; local employers' attitudes about the schools; openness of the school to the parents and community for visits, discussions, or problems; and utilization of community members in the school (story-tellers and grandparents).

11. Role and function of the school board in budgeting, program planning and evaluation, staff selection and evaluation, and long-range planning.

ON-SITE INTERVIEW GUIDE

Structured interviews should be conducted with the school principal as the first and closing activity of the visit. Irrespective of assurances, the local personnel will have some anxiety about the team visit; team members should make every effort to alleviate these concerns.

Entrance Interview

At the entrance interview, the team should express its appreciation for the school's participation in the study, emphasize that the purpose of the visit is to gather information that can be used in preparing recommendations for the revision of ISEP, emphasize that the purpose of the visit is NOT to evaluate the school, indicate the persons to be interviewed, and explain the reasons for interviewing these various individuals. One person should take the lead and serve as the spokesperson for the team. The exit interview should be scheduled at this time.

Exit Interview

The purposes of the exit interview are to provide the team with the opportunity to express its appreciation for the school's participation in the study and to verify any observations on which additional information is needed. The team should meet in advance of the exit interview to identify its principal findings. Emphasize that the purpose of the visit is NOT to evaluate the school or to compare one school with another, but is to gather information that can be used in preparing recommendations for the revision of ISEP.

ON-SITE INTERVIEW FORMAT

A. Questions which **MUST** be asked of each school
BY EACH TEAM.

1. ID areas on original application that were not completed. A-H, etc.)
2. Attendance form.
3. Were there any school (curricular or extra curricular) programs which you actually had to cut due to lack of funds.
4. What would (or how much of a difference to your school) the use of ADA (Average Daily Attendance) be than ADM (Average Daily Membership) in figuring your student count?
5. How do you feel about the present count system? Relate if possible to the forward funding. What about a three week count period as opposed to the present one week count week?
6. Should ISEP fund Tribal Choice or BIA Standards? Do you follow BIA standards? Has your school waived BIA standards? What standards, if BIA standards are waived, do you follow? Does your school have a BIA compliance form completed for 1989-1990? (Elective sources at on site visit)
7. Due to your financial situation, have you reduced hours of staff or staff totally?
8. Are food costs using ISEP money?
9. In your application for this project have you in funding considered all extra-curricular salaries over and above salary listed?
10. Is your transportation enough as shown in Exhibit 4. If not where do the extra funds come from.
11. What recommendations would your have to alter, better the formula.
12. Could you assure all sources of funding and amounts. (If you did not fill in the lower right corner of Exhibit I).
13. How many other funding sources have you tried to access? Successful? Unsuccessful? List those attempted. What programs are you aware you can apply for? Has state subsidy of ISEP been discussed?
14. What local conditions in your school or area effect your costs and needs in education that are not addressed in the ISEP formula.

15. Are there any special ways you have developed that allowed you to cut corners, or progress with short fall funding?
16. Are there procurement or finance systems that impede, or inhibit your day to day operations.
17. Are there some things which should be funded "off-ISEP" either as add-on or need based.
Examples: Special state standards
Library resources and improvement
Food, health supplies
Staff development
Non-factor add-on for non-expendable, non-consumable equipment.
(a capital outlay account)
18. What variables have you no control over (e.g., state personnel standards, energy, transportation, etc.)
19. Is security sufficiently funded in your school?
20. What safety factors and priorities have you submitted that are not on your backlog?
21. Budget information needed for further discussion when the team arrives.
(Some may be included in Exhibit I but details will be needed to look at the formula in depth.)
 - A. Totals for each budget fund with source of income. Please include all applicable:
 1. Private grants
 2. Tribal Funds
 3. ISEP
 4. Chapter I
 5. All parts of P.L. 94-142
 6. Indian Education Act
 7. Title VII bilingual education.
 8. USDA (school lunch)
 9. Library services
 10. Vocational Education
 11. Alcohol and drug abuse and Dept. of Ed drug abuse.
 - B. Breakdown information on contracted outside services, i.e. food services, laundry, etc.
 - C. Transportation information by school--i.e., bus mileage, type of bus, air transportation, bus tickets, bus charters, types of trips and funding source for each type (to and from school, family, health academic, extracurricular.).
 - D. Extra transportation needs -- death, illness, or other personal or family emergencies.

- E. Expenditures on health, postage, special counseling and psychiatric care, employee benefits, labor for O&M for the dormitories, security expenses, home living materials (furniture, TV, VCR, student recreation, and extra-curricular activities).
- F. Library Expenditures--use, amount, and sources of dedicated funds.
- G. ((This item of CONTRACT GRANT SCHOOLS ONLY)) Financial Reports (closeout for FY 90 and first quarter of FY 91)--detailed report of expenditures by contracted services, personnel, transportation, etc.

ATTENDANCE STATISTICS FOR 1989-1990

TOTAL # STUDENTS:

[illegible][illegible]

ELEMENTARY TEACHERS:

PLEASE INDICATE THE NUMBER OF STUDENTS YOU HAD IN YOUR CLASS ON COUNT DAY IN SEPTEMBER. FOR EACH MONTH AFTER THAT PLEASE ENTER THE NUMBER OF STUDENTS IN YOUR CLASSROOM ON THE LAST DAY OF EACH MONTH. THANK YOU!

HIGH SCHOOL STATISTICS:

GRADES SHOULD BE CONSIDERED AS ONE UNIT OR "CLASS".
RECORDS SHOULD BE FROM THE HIGH SCHOOL OFFICE PER
GRADE NOT ON AN INDIVIDUAL CLASS PER TEACHER BASIS.

DO NOT TOTAL FIGURES: ONLY ADD NUMBER OF STUDENTS.
ANALYSIS WILL BE DONE BY THE VISITING TEAM AT A LATER DATE. THANK YOU!

(USE AS MANY SHEETS AS NECESSARY.)

- B. Questions which may be asked at schools, but not mandatory.
1. Standards (Oct.-Nov.) may need modifications. Teams can explore this at visit.
 2. ISEP funding used for Special Education.
<ID cost verses Uses> How do services effect cost?
 3. O&M costs. (Check local school materials now listed on their backlog)
 4. Have you received outside funding referral to in question 12 A.
 5. How would you change the ISEP formula to be more program orientated.
 6. If your supplemental programs were not funded would you be able to run your basic program?
- C. Other necessary questions which occur to each team as they develop at each school. (Record here with answers).

D. Residential questions to be asked.

1. Is your budget adequate to meet the needs of the residential students.
2. List areas that funding is inadequate?
3. Are the needs of the residential students different from day students?
Please explain.
4. What types of training needs need to be provided to your residential/academic staff?
5. Does the present O&M formula meet the needs of your residential setting.
6. Are sufficient psychological and counseling services provided for your students.
7. As a residential center, are your equipment needs different than day schools?
Please explain.
8. Are there too many written reports requested by the Bureau? What reports do you feel are duplicated, or not needed.
9. Are health services sufficient for the residential students? What type of health needs are not being met?
10. Is security sufficiently funded for your residential program.
11. Are there jurisdiction problems between the Federal and State and Tribal governments at your location.
12. Are there sufficient academic programs being offered after school such as tutoring homework assistance?
13. Is there a need for more vocational programs for your residential students?
14. Do you have adequate and trained staff to meet the needs of the students? Please explain the types of staff needed and staff training programs needed?
15. Does the formula provide for sufficient transportation needs of your students. List your transportation needs.
16. List facility code deficiencies for your residential programs and facility needs.
17. Does your school have sufficient space for after school study activities?
18. Are there cultural programs sufficient to meet your students needs.
19. Is funding sufficient for weekend activities?
20. Is there tribal and community involvement in your school?

21. Are library services/materials sufficient for your residential program? Please list the needed services/materials.
22. Is your location in a remote area away from a major college library? Would a computer network between your facility and the university library benefit your students.
23. Is your school sufficiently funded to meet the drug and alcohol needs of your students.
24. What changes would you make in the IRG program?

LIST ANY OTHER NEEDS FOR YOUR RESIDENTIAL PROGRAM:

EXHIBIT IV

NATIONAL DORMITORY CRITERIA OBJECTIVES

Exhibit IV

National Dormitory Criteria

Objectives for Recommendation A.4

1. To revise 25 CFR 39.11 and insert a section VII which will require each residential program to have available a licensed psychologist or social worker to conduct proper student assessments in order to effectively and professionally recommend proper placement/services for each child enrolled in the residential program.

2. To reduce the number of students per counselor in the elementary and secondary dormitories to no more than 75 students per counselor and to require the counselors to have a valid counseling certificate. The ratio will be as follows:

- a. Less than 75 students: one full time equivalent (FTE) counselor who holds a valid counseling certificate.
- b. 76 students to 150 students: one and one-half FTE counselors.
- c. 151 students to 225 students: two FTE counselors.
- d. 226 students to 300 students: two and one-half FTE counselors.
- e. above 300 students will meet the above ratios.

3. To revise 25 CFR 36.74 to include at least two adults being on duty at all times when students are in the dormitory.

4. To increase the number of staff per student in all dormitory programs by using the following ratios:

Grades 1 to 6

Weekdays	
Mornings	required 1:15
School hours	required 1:25
Evenings	required 1:15
Nights	required 1:20

Weekends	
Mornings	required 1:15
Evenings	required 1:15
Nights	required 1:20

Grades 7 to 12

Weekdays	
Mornings	required 1:25
School hours	required 1:40
Evenings	required 1:25
Nights	required 1:40

Weekends	
Mornings	required 1:25
Evenings	required 1:25
Nights	required 1:40

5. Revise 25 CFR 36 to include the requirement that dormitory facilities will have a designated room or rooms to be used as an isolation room(s) for student health care needs and such rooms shall have a trained paraprofessional on duty.

6. Revise 25 CFR 36 to include the requirement that dormitories provide a place and time whereby students can receive tutoring/assistance in completing assigned homework and in remediating academic deficiencies. Certified tutors will be used to the extent possible.

7. Revise 25 CFR 36.75 to include a requirement that when new dormitories are constructed or existing dormitories are remodeled, sleeping rooms will not exceed a maximum of four students per room for grades 1-12. Also, showers will be constructed in a manner to give the students privacy.

8. Additional Dormitory Recommendations:

a. Training of staff in the following subject areas as appropriate:

1. sexual abuse
2. children of alcoholics
3. satanism
4. home sickness
5. date rape
6. suicide prevention
7. grief issues
8. conflict resolution
9. adolescent sexuality
10. dual diagnosis
11. fetal alcohol syndrome
12. detoxification procedures
13. anger management
14. adolescent development
15. small group development in a homeliving situation
16. parenting skills for staff in serving students from dysfunctional families
17. use and abuse of tobacco products
18. student depression
19. physical violence

- 20. staff depression
- 21. chemical dependency
- 22. morale building
- 23. AIDS, CPR/first aid, diets, diabetes, bulimia, anorexia nervosa, hypertension and smoking prevention.

- b. Due to the critical responsibilities the dormitory staff assumes in the overall development of children in homeliving situations, efforts to recruit, hire and retain qualified homeliving personnel, especially at the paraprofessional level, must be a high priority for the whole BIA school system. Staff qualifications need to be revised and upgraded so they will be able to service students with complex needs. Job satisfaction, security and longevity are a must to retain qualified staff.
- c. A comprehensive support program in the areas of mental health and health care and security must be developed and implemented. Trained staff, such as a school nurse, mental health worker and security personnel need to be a part of the program. Currently, existing residential staff are expected to provide these additional services even though they are not specifically trained to do so.
- d. Residential programs must provide the students with positive and productive activities. They should include, but not be limited to, life skills development activities, leisure time activities and service oriented activities. Students must also be afforded some private time for themselves.
- e. A comprehensive substance abuse program must be part of every residential program. Such programs must include prevention measures, policies, access to treatment and aftercare.

Consultation Item # 5

CONSULTATION ITEM/TOPIIC:	Indian America 2000 - A Long Range Education Plan
POTENTIAL ISSUE OR CHANGE:	To develop and implement a long range education plan for programs administered by the Bureau of Indian Affairs.
REASON FOR PROPOSING ISSUE OR CHANGE:	<p>Several reports/proposals at the national level have highlighted the fact that the Bureau does not have any type of national level long range education plan to guide its efforts and resources. The need for such long range planning was identified in:</p> <ul style="list-style-type: none">(1) a recent Department of Interior Inspector General audit;(2) meetings with Office of Management and Budget Representatives;(3) The Nations at Risk Education Report;(4) The President's America 2000 - National Education Goals.
CURRENT OPTION(S) BEING CONSIDERED BY THE BUREAU:	To publish, after Tribal consultation, a final version of Indian America 2000 - A Long Range Education Plan

BACKGROUND

During the July, 1991 Tribal Consultation Meetings, the Bureau proposed the beginnings of a long range education plan to guide the future efforts of the Office of Indian Education Programs. The initial proposal was based on one goal regarding the academic achievement of Indian students attending Bureau funded schools. The Bureau received several comments on the proposal and has developed a revised version of a long range plan entitled Indian America 2000 - A Long Range Education Plan.

Also during 1991, the President announced America 2000 - An Education Strategy. This document included six national education goals. The Secretary of Interior has pledged his support for the national education goals.

The Indian America 2000 - A Long Range Plan attempts to incorporate the comments received during the July, 1991 consultation meetings and the new six national education goals announced by President Bush. After input from Tribes, school administrators, school boards, tribal organizations and other interested parties in January, 1992, the Bureau plans to release a final version of Indian America 2000 in the Spring of 1992.

INDIAN AMERICA 2000
(EXHIBIT 5-A, Page 5-3)

U.S. DEPARTMENT OF THE INTERIOR

INDIAN AMERICA 2000

A LONG RANGE EDUCATION PLAN



BUREAU OF INDIAN AFFAIRS

Office of
Indian Education
Programs

BRANCH OF PLANNING

MAY, 1992

5-3

359

NOTE:

The following document is a draft of a possible long range education plan for the Bureau of Indian Affairs. As a draft document, the contents of the plan are subject to change based on comments from Tribes, schools, school boards, Tribal organizations, parents, Area and Agency education offices and other interested parties through the Tribal consultation process.

Indian America 2000

A Long Range Education Plan

Bureau of Indian Affairs

Office of Indian Education Programs

Branch of Planning

TABLE OF CONTENTS

Section	Page
Overview of Plan.....	1
Mission Statement.....	2
Indian America 2000 Goals.....	3
Strategic Framework.....	3
Indian America 2000 Objectives.....	4
Indian America 2000 Milestones and Tasks.....	8
Technical Support for Indian America 2000.....	10
Summary.....	10

Overview of Plan

The purpose of Indian America 2000 - A Long Range Education Plan (IA 2000) is to provide the Bureau of Indian Affairs with a framework to guide its efforts and resources in administering 182 elementary/secondary schools and related education programs for American Indian students.

Contents of Draft Plan

The proposed Indian America 2000 plan consists of the following major components:

1. Mission statement (see page 2)
2. Goal statements (see page 3)
3. Strategic framework (see page 3)
4. Objectives (see page 4)
5. Milestones (see page 8)
6. Tasks (see page 8)

Adoption of Indian America 2000 By Indian Country

It is proposed that all Bureau funded schools and education programs, including Bureau administered and Tribally operated, will adopt the proposed Indian America 2000 plan by becoming an Indian America 2000 school/community. To become an Indian America 2000 school or community, the entity would:

1. Formally adopt the appropriate Indian America 2000 goal/objectives.
2. Develop a local annual Indian America 2000 school/community activity plan which includes local tasks to be completed in order to meet the appropriate milestones and goals/objectives.
3. Agree to issue a local annual report card to the local community which would reflect the progress made at the local level on the appropriate goal, objectives and milestones.

The Reporting of Progress Made on Indian America 2000

Progress made by Indian country on Indian America 2000 objectives and annual system-wide milestones would be identified at the school/community level, the Area/Agency education office level and the OIEP central office level on an annual basis. Annual progress would be measured in terms of the annual tasks identified and completed at all three levels.

Progress made each year on local school/community tasks by the local school/community would be included in a Local Annual Report Card (LARC). Progress made each year on regional tasks by the Area/Agency education offices would be reported in a Regional Annual Report Card (RARC). Progress reported in Local and Regional Annual Report Cards would be incorporated into a National Annual Report Card issued by the Office of Indian Education Programs.

Major IA 2000 Actions Proposed for FY 1992

Most actions planned for the Indian America 2000 plan in FY 1992 will focus on actual development/finalization of the plan and its component parts. The attached draft document represents a possible starting point for discussions with schools, Tribes, Tribal organizations, parents and other interested parties. The Bureau proposes to issue a final version of the long range plan in the Spring of 1992. Input from Indian country is being requested on any aspect of the draft plan.

Major IA 2000 Actions Proposed for FY 1993

It is anticipated that after the development/finalization of a long range plan during FY 1992, additional measurement techniques will have to be identified in early FY 1993. As with the National Education Goals process, specific measurement procedures for each goal, objective and milestone will have to be identified for purposes of identifying progress made each year.

The Bureau proposes to use small work groups composed of "program users" to actually develop the measurement indicators/methods for each goal. It is proposed to convene these groups in early FY 1993 and issue the final measurement methods in the Spring of 1993. Beginning with FY 1994, all progress on the system-wide goals, objectives, milestones and tasks would be assessed using these methods. Such common measurement methods would also be used by the OIEP, Area/Agency offices and schools/communities in issuing their respective annual report cards.

Once the milestones and the respective measurement systems are developed and in place, annual activity/task plans could be developed and implemented for purposes of achieving the system-wide goals, objectives and milestones. Annual activity/task plans could be developed at the OIEP level, Area/Agency level and the school/community level.

Mission Statement

The following mission statement comes from the 25 CFR 32:

The mission of the Bureau of Indian Affairs, Office of Indian Education Programs, is to provide quality education opportunities from early childhood through life in accordance with the Tribes' needs for cultural and economic well-being in keeping with the wide diversity of Indian Tribes and Alaska Native villages as distinct cultural and governmental entities. The Bureau shall manifest consideration of the whole person, taking into account the spiritual, mental, physical and cultural aspects of the person within family and Tribal or Alaska Native village contexts.

Indian America 2000 Goals

By the year 2000,

1. All American Indian children attending Bureau funded schools will be provided the opportunity, subject to Tribal approval, to maintain or enrich their respective Indian/Tribal culture.
2. All Indian children enrolling in kindergarten programs offered by Bureau funded elementary schools will start school ready to learn.
3. The Indian high school graduation rate for Bureau funded schools will increase to at least 90 percent.
4. American Indian students attending Bureau funded schools will leave grades two, four, eight and twelve having demonstrated competency in challenging subject matter including English, mathematics, science, history and geography; and every Bureau funded school will ensure that all students learn to use their minds well, so they may be prepared for responsible Tribal and US citizenship, further learning and productive employment.
5. American Indian students attending Bureau funded schools will be among the first in the country in science and mathematics achievement.
6. Adult American Indians will be literate and will possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of Tribal and US citizenship.
7. Every Bureau funded school will be free of drugs and violence and will offer a disciplined environment conducive to learning.

Strategic Framework

The Indian America 2000 goals represent broad concepts to be achieved over several years. Specific tasks and activities must be designed, implemented and evaluated to determine the organization's progress in reaching the stated goals. To guide the efforts of the Bureau in reaching its goals, an overall strategy of implementation was developed. This strategic framework consists of several themes that, when implemented throughout all objectives, ensures that all

objectives for each major goal are reached. The Indian America 2000 strategic framework consists of the following characteristics or themes:

1. a system of accountability at all levels of the BIA education program that focuses on results.
2. a rigorous program of instruction designed to ensure that every child can acquire the knowledge and skills required for today's society.
3. active, sustained parental and Tribal community involvement.
4. decentralization of authority and decision-making responsibility to the school/program site, so that educators are empowered to determine the means and methods for achieving the applicable goals and to be held accountable for accomplishing such goals.
5. an education system that develops first-rate teachers and creates a professional environment that provides real rewards for success with students, real consequences for failure, and the tools and flexibility required to get the job done.

Indian America 2000 Objectives

The Indian American 2000 (IA2000) objectives have been grouped according to the major goals:

Goal 1. Tribal Culture

- Objective 1.1 OIEP will report progress/accountability towards meeting the Tribal Culture goal/objectives in all Bureau funded schools by developing/implementing a tracking system for IA2000 schools/communities and for the National OIEP Annual Report Card.
- Objective 1.2 Bureau funded schools will provide quality culturally based instructional programs.
- Objective 1.3 Parents/Tribes/School Boards will be actively involved in developing such culturally based programs and activities.
- Objective 1.4 Bureau funded culturally based instructional programs will allow personnel latitude in designing/implementing program activities.
- Objective 1.5 Bureau funded culturally based instructional program staff will possess the necessary skills and training.

Goal 2. School Readiness

- Objective 2.1 OIEP will report progress/accountability towards meeting the School Readiness goal/objectives in 139 Bureau funded elementary schools which include grade K by developing/implementing a tracking system for IA2000 schools/communities and for the National OIEP Annual Report Card.
- Objective 2.2 Bureau funded School readiness projects will provide quality instructional programs for preschool students.
- Objective 2.3 Parents/Tribes/School Boards will be actively involved in Bureau funded school readiness projects and activities.
- Objective 2.4 Bureau funded School readiness programs will provide school readiness program personnel latitude in designing/implementing program activities.
- Objective 2.5 Bureau funded School readiness program staff will have the necessary skills and training.

Goal 3. High School Graduation Rate

- Objective 3.1 OIEP will report progress/accountability towards meeting the High School graduation rate goal/objectives in 52 Bureau funded high schools which include grades 9-12 by developing/implementing a tracking system for IA2000 schools/communities and for the National OIEP Annual Report Card.
- Objective 3.2 The 52 Bureau funded HS secondary programs will provide quality instructional programs for all students.
- Objective 3.3 Parents/Tribes/School Boards will be actively involved in the 52 high school graduation rate improvement programs/activities.
- Objective 3.4 The 52 Bureau funded Secondary school programs will provide program personnel latitude in designing and implementing high school graduation rate improvement projects and activities.
- Objective 3.5 Bureau funded secondary school staff will have the necessary skills and training.

Goal 4. Student Competency in subject matter.

- Objective 4.1 OIEP will report progress/accountability towards Bureau funded student competency goal/objectives by developing/implementing a tracking system for IA2000 schools/communities and for the National OIEP Annual Report Card.
- Objective 4.2 The 182 Bureau funded Elementary and Secondary schools will provide quality instructional programs for all students.
- Objective 4.3 Parents/Tribes/School Boards will be actively involved the 182 Bureau funded elementary and secondary schools.
- Objective 4.4 The 182 Bureau funded Elementary and Secondary schools will provide the program personnel latitude in designing and implementing program activities.
- Objective 4.5 Bureau funded Elementary and Secondary school staff will have the necessary skills and training.

Goal 5. Science and Mathematics Achievement .

- Objective 5.1 OIEP will report progress/accountability towards Bureau funded science and mathematics goals/objectives by developing/implementing a tracking system for IA2000 schools/communities and for the National OIEP Annual Report Card.
- Objective 5.2 The Bureau funded math and science programs will provide quality instructional projects.
- Objective 5.3 Parents/Tribes/School Boards will be actively involved in Bureau funded math and science programs.
- Objective 5.4 Bureau funded math and science programs will provide program personnel latitude in designing and implementing math and science program activities.
- Objective 5.5 Bureau funded math and science program staff will have the necessary skills and training.

Goal 6. Postsecondary/Adult Education

- Objective 6.1 OIEP will report progress/accountability towards Bureau funded postsecondary/adult education goals/objectives by developing/implementing a

tracking system for IA2000 schools/communities and for the National OIEP Annual Report Card.

- Objective 6.2 Bureau funded postsecondary/adult education programs, such as Tribally Controlled Community Colleges, Southwestern Indian Polytechnic Institute, Bureau and Tribal higher education scholarship programs and Bureau and Tribal adult education programs, will provide quality instructional programs.
- Objective 6.3 Parents/Tribes/School Boards will be actively involved in Bureau funded postsecondary/adult education programs by adopting the IA 2000 Postsecondary/Adult education goal/objectives and issuing a local annual report card to its constituents.
- Objective 6.4 Bureau funded postsecondary/adult education programs will provide program personnel latitude in designing and implementing program activities.
- Objective 6.5 Bureau funded postsecondary/adult education staff will have the necessary skills and training.

Goal 7. School Environment

- Objective 7.1 OIEP will report accountability/progress towards meeting the School Environment goal/objectives by developing/implementing a tracking system for IA2000 schools/communities and for the National OIEP Annual Report Card.
- Objective 7.2 The 182 Bureau funded schools will provide a school environment which is conducive to learning.
- Objective 7.3 Parents/Tribes/School Boards will be actively involved in establishing and maintaining an appropriate school environment within 182 Bureau funded schools.
- Objective 7.4 The 182 Bureau funded schools will provide the program personnel latitude in designing and implementing school environment improvement activities.
- Objective 7.5 Bureau funded school staff will have the necessary skills and training.

Indian American 2000 Milestones and Tasks

The draft Indian America 2000 (IA 2000) plan uses the terms objectives, milestones and tasks to structure the overall plan.

Objectives: Each of the seven goals has five objectives identified for achievement. Each set of five objectives corresponds to the five items identified in the strategic framework section. In IA2000 the objectives set the direction of efforts.

Milestones: IA2000 proposes two types of milestones. One type of milestone was identified for the year 2000. For example, the School Readiness tables show a set of eight milestones that when fully achieved, the total SR objective would be met. The eight milestones represent a set of conditions that when met or achieved, one would agree that the entire objective was met.

The second type of milestone which could be used would represent annual milestones from FY 1993 through FY 1999 and could represent an annual indicator of the progress made towards the FY 2000 milestones.

Tasks: Tasks represent activities or actions to be completed in order for the set of milestones to be met or achieved. It is proposed that tasks be developed at the school/community level, the Area/Agency education office level and the central office level. By achieving tasks for a given goal/objective at the three levels, the achievement of the overall milestones would be reached.

IA 2000 Milestones

Tables I through VII identify a sample of proposed system-wide milestones to be completed by FY 2000 for each goal and corresponding objective. Table I shows seven milestones that could be reached in meeting the five objectives for Goal I - Tribal Culture. Table II shows nine proposed milestones to be reached system-wide for meeting the five objectives for Goal II - School Readiness.

The nine milestones for Goal II - School Readiness were derived by identifying nine conditions which would have to be met by the year 2000 in order for the five objectives for Goal II to be met. These nine conditions were translated into the nine milestone statements as follows:

To fully meet goal II by the year 2000,

1. All School Readiness programs operating in the 139 communities with Bureau schools offering a Kindergarten program would have to be identified and tracked.
2. A national annual report card which identified the status of all 139 communities would have to be issued.

3. All 139 K schools/communities would operate at least one School Readiness program.
4. All enrolling Kindergarten students would have had an opportunity to attend a School Readiness program.
5. All entering Kindergarten students in the 139 communities would possess the appropriate school readiness skills.
6. All 139 schools/communities would have actively involved parents in the school readiness program.
7. All 139 schools/communities would have adopted the IA 2000 School Readiness goal/objectives and issued a local annual report card.
8. All School Readiness programs in the 139 schools/communities would have been designed and implemented by local program staff.
9. All of the professional staff involved in the local School Readiness program would meet or exceed the appropriate teacher qualifications/standards.

The same process was used in identifying proposed FY 2000 milestones for the remaining six goals.

The Bureau is requesting comments on the feasibility of the FY 2000 milestones for each goal.

IA 2000 Tasks

As stated previously, the IA 2000 concept proposes to use input from the OIEP(Central office) level, the Area/Agency education office level and the school/community level. While IA 2000 proposes a common or system-wide set of goal, objectives and milestones for all three levels, the identification of specific annual tasks to be completed at each level would be a local decision. It is proposed that the local annual activity plans for any given community/school would allow that entity the flexibility to identify and carry out those local actions which it deems appropriate.

To stimulate discussion, Table VIII shows a possible FY 1993 activity plan for the OIEP to follow for Goal II - School Readiness. Similar annual activity plans could be developed and used at the Area/Agency and school/community levels.

Concerning the possible use of tasks in IA 2000, the Bureau would welcome comments/suggestions on the following questions:

1. Should the OIEP, Area/Agency and school/community level activity plans be in the same format?

2. In what type of format should the annual report cards identify progress made on the annual tasks?
3. What type of information should be presented in the annual report cards?

Technical Support for Indian America 2000

In addition to a planning document with proposed goals, objectives, milestones and tasks, some type of resource/information center may be needed to assist Indian Tribes and Bureau funded schools in their efforts to implement Indian America 2000. For example, if the 182 elementary and secondary schools and Tribes needed to train staff in order to meet objective five for each of the seven goals, then perhaps an Indian America 2000 Resource center could be developed to assist all Indian America 2000 communities. Such a center could:

1. Serve as a clearing house for any assistance needed by schools/communities in implementing its Indian America 2000 plan.
2. Serve Bureau and Tribal schools by coordinating resources needed for an effective staff development program.
3. Serve Bureau and Tribal schools by maintaining a skills bank of Bureau and Tribal education personnel who could provide specific expertise on site.

The Bureau is requesting comments/suggestions on the concept of an Indian America 2000 Resource Center.

Summary

The draft Indian American 2000 document proposes a system-wide set of goals and objectives to guide the efforts and resources of the Bureau of Indian Affairs over the next several years. A set of proposed milestones for each objective has been identified. Such milestones would allow specific performance indicators within each objective to be identified and measured. Also, the concept of annual activity plans, with locally determined tasks, was presented. Finally, the concept of an Indian America 2000 Resource Center was presented. The Bureau welcomes any comments/suggestions on any aspect of the proposed plan.

Table I

Goal 1 : Tribal Culture FY : 2000

Milestone
1.1.1 Instructional programs ident/tracked in all 182 schools
1.1.2 National Annual Report Card (NARC) issued
1.2.1 Of 182 schools, 182 have culturally based programs
1.3.1 All 182 schools actively involved parents in programs
1.3.2 All 182 schls comm adopt TC goal/obj & issue LARC
1.4.1 All TC programs in 182 schools designed by local staff
1.5.1 All instructional staff will have approp skills/training
TC= Tribal Culture LARC=Local Annual Report Card
NARC=National Annual Report Card

Table II

Goal 2 : School Readiness FY: 2000

Milestone
2.1.1 SR programs identified/tracked in all 139 K sites
2.1.2 National Annual Report Card (NARC) issued
2.2.1 Of 139 schls comm, 139 have at least one SR program
2.2.2 All K students in 139 schls/comm had oppor for SR program
2.2.3 All K students in 139 schls/comm possess approp SR skills
2.3.1 All 139 schls/comm actively involve parents in SR programs
2.3.2 All 139 schls comm adopt SR goal/objectives & issue LARC
2.4.1 All SR programs in 139 schls/comm designed by local staff
2.5.1 100% of SR profess. staff meet/exceed approp teach standrds
SR=School Readiness LARC=Local Annual Report Card
NARC=National Annual Report Card

Table III

Goal III : High School Graduation Rate FY : 2000

Milestone
3.1.1 HS attendance data identified/tracked in all 52 HS
3.1.2 National Annual Report Card (NARC) issued
3.2.1 Intervention prgrms to improve attend exist in all 52 HS
3.2.2 90% of 1996 9th graders graduate GED, excluding transfers
3.3.1 All 52 HS actively involve parents in HS programs
3.3.2 All 52 HS adopt HS goal/objectives & issue LARC
3.4.1 All 52 HS operate programs designed by local staff
3.5.1 All prof. staff in 52 HS meet/exceed approp teach standards
HS= High School LARC=Local Annual Report Card
NARC=National Annual Report Card

Table IV

Goal IV : Student Competency

FY : 2000

Milestone
4.1.1 Student achievement tracked in all schools offering grades 4-8-12
4.1.2 National FY 2000 Annual Report Card (NARC) issued
4.2.1 All instructional programs meet appropriate local standards
4.2.2 For grades 4-8-12 each school's average student performance >50NCE
4.3.1 All schools actively involve parents in school programs
4.3.2 All schools adopt SC goal objectives & issue LARC
4.4.1 All schools operate programs designed by local staff
4.5.1 All professional staff in all schools meet/exceed appropriate teacher standards
SC=Student Competency LARC = Local Annual Report Card NARC=National Annual Report Card

Table V

Goal V : Math Science

FY : 2000

Milestone
5.1.1 Identify Track Math Science achievement in all schools
5.1.2 National FY 2000 Annual Report Card (NARC) issued
5.2.1 Math Sci achievement in grades 8 & 12 =>85 NCE in 90% of schools
5.2.2 All schools operate M/S improvement programs
5.3.1 All schools actively involve parents in M/S programs
5.3.2 All schools adopt M/S goal objectives & issue LARC
5.4.1 All M/S programs designed by local staff
5.5.1 All M/S professional staff meet/exceed appropriate teacher standards
M/S= Math Science LARC = Local Annual Report Card NARC=National Annual Report Card NCE = Normal Curve Equivalent

Table VI

Goal VI : Postsecondary/Adult

FY : 2000

Milestone
6.1.1 P/A educ. programs identified/tracked as all P/A sites
6.1.2 FY 2000 National Annual Report Card (NARC) issued
6.2.1 Student achievement in all P/A sites meet local standards
6.3.1 All P/A sites actively involve parents/school boards in programs
6.3.2 All P/A sites adopt P/A goal objectives & issue LARC
6.4.1 All P/A educ. programs designed by local staff
6.5.1 All P/A professional staff meet/exceed appropriate teacher standards
P/A= Postsec/Adult LARC = Local Annual Report Card NARC=National Annual Report Card

Table VII

Goal VII: School Environment

FY : 2000

=====	
Milestone	

7.1.1	SE activities ident. tracked in all 182 schools communities
7.1.2	FY 2000 National Annual Report Card (NAP) issued
7.2.1	90% of schools will have no incidents involving drugs
7.2.2	All schools have a SE improvement program
7.3.1	All 182 schools actively involve parents with SE activities
7.3.2	All 182 schools adopt SE goal, objectives & issue LARC
7.4.1	SE programs in 182 schls/comm designed by local staff
7.5.1	100% of SE prof. staff meet, exceed approp teacher standards
=====	
SE=School Environment LARC = Local Annual Report Card	
NARC=National Annual Report Card	

Table VIII.

FY 1993 Annual Activity Plan

Level: Office of Indian Education Programs

Goal: II - School Readiness

Task	Action Office	End Product	TCD
11 Prepare FY 93 National Annual Report Card	Br. of Planning	National FY93 Ann Report Card	07/01/93
10 Publish SR ECE grant regs per 25 USC 2022a	Br. of Elem./Sec	Final Rule for SR/ECE grants	12/01/92
9 Revise SR sectn of BIAM for local prgrm flexibility	Br. of Elem./Sec	New BIAM release for SR program	02/01/93
8 Identify FY 95 budget need for FY 95 SR milestones	Br. of Elem./Sec	Projected costs for FY95 SR milstns	12/01/92
7 Approve award FY 93 SR projects	Br. of Elem./Sec	Approved FY 93 SR projects	11/01/92
6 Finalize SR DCF distribute to 139 K commun for FY94	Br. of Elem./Sec	Distribution of measurement system	05/01/92
5 Opens data base for FY 1992 Annual Progress Report	Br. of Planning	SR data base for NARC established	05/01/93
4 Pilot SR DCF. Analyze results	Br. of Elem./Sec	Instrumentation tested/validated	02/01/93
3 Ident SR DCF to measure milstnes 1.2.1 thru 1.5.1	Work Group	Methods of measurement identified	12/10/92
2 Provide tech support for SR DCF design	Br. of Research	Advice on format of forms/data type	11/30/92
1 Designate/Convene a SR work group of K users	Br. of Elem./Sec	An SR work group of K users	11-15-92

Consultation Item # 6

CONSULTATION ITEM/TOPIC:
(Discussion Item Only)

Alternative Methods for the distribution of Adult Education and Higher Education Grant Program funds.

POTENTIAL ISSUE OR CHANGE:

To consider whether alternative methods for distributing funds might be more viable than the current methods.

REASONS FOR PROPOSING ISSUE OR CHANGE:

Comments from previous consultation meetings have requested that consideration be given to other methods of distributing funds for the Adult Education and Higher Education Grant Programs.

CURRENT OPTION(S) BEING CONSIDERED BY THE BUREAU:

This item is a discussion item only and does not include any specific option or proposal for consideration. Rather, the item is offered for specific or general discussion and/or proposals for consideration.

BACKGROUND

Based on provisions of the Indian Reorganization Act (P.L. 73-383) the Bureau of Indian Affairs' (BIA) provides for the direct involvement of tribal governments in the development of annual appropriation requests.

Provisions of such law specify that:

"The Secretary of the Interior shall advise such tribe or its tribal council of all appropriation estimates or Federal projects for the benefit of the tribe prior to the submission of such estimates to the Bureau of the Budget [now OMB] and the Congress."

The BIA's Indian Priority System (IPS) is the mechanism by which tribal governments' involvement is gained. The IPS was developed and implemented in the early 1970's and is in keeping with provisions of the Indian Reorganization Act and the Indian Self-Determination and Education Assistance Act of 1975. At the time of implementation, the IPS was commonly referred to as the "Band Analysis."

Through the IPS the BIA attempts to directly involve tribal governments in setting relative priorities for locally operated programs. Tribes are invited to consult with the local BIA offices to determine how much funding and staffing each program should have within the overall funding to be made available to the BIA.

Appropriated requests include a separate budget activity for all Tribe/Agency programs on the IPS system. This consolidation is intended to permit tribes considerable flexibility during the operating year to request the Bureau to shift funds between programs to better meet changing priorities. Narrative materials are developed on an area-by-area basis to describe individual tribal decisions which have made significant changes to the amounts requested by program on a Bureauwide basis.

The Higher Education Grant and Adult Education Programs have been and continue to be a part of the IPS. Recent requests have been made that the Bureau consider alternative methods which would continue tribal government involvement and at the same time maintain the integrity of funding levels for each of the two programs.

EXHIBIT 6-A

A proposed alternative is not suggested. Rather, the Bureau's purpose for including this topic as an agenda item is strictly for the purpose of providing Indian tribes and organizations an opportunity to express their views concerning whether an alternative to the IPS method of distributing funds for the Adult Education and Higher Education Grant Programs should be developed; and, if so, to offer comments and/or proposals for consideration.

The Office of Indian Education is, therefore, inviting comments on the question and suggested and/or proposed distribution methodologies for consideration.

Examples of alternative methods might include (1) a distribution formula based on weight factors to ensure fair and equal consideration for all; or, (2) a method which provides a base amount as a beginning point for distribution.

For purposes of gaining comments, this discussion item is posed in the form of a question, as follows:

Should an alternative(s) to the IPS method of distributing Adult Education and Higher Education Grant Program funds be considered by the Bureau?

Commentors are asked to:

1. State AGREEMENT OR DISAGREEMENT with the question; and, offer a rationale for their position, as appropriate.
2. Suggest or propose alternative methods for consideration IF, they AGREE that alternatives should be considered.

TRIBAL CONSULTATION BOOKLET

U.S. DEPARTMENT OF THE INTERIOR



BUREAU OF INDIAN AFFAIRS

**OFFICE OF
INDIAN EDUCATION
PROGRAMS**

BRANCH OF PLANNING

JULY 1992



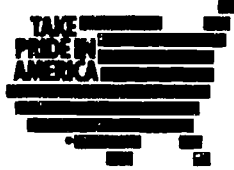
TABLE OF CONTENTS

<u>Section</u>	<u>Page</u>
Tribal Leader/School Board Letter	1
Federal Register Notice	3
<u>Consultation Items</u>	
Fiscal Year 1995 Education Budget Tribal Priorities	7
<i>President's FY 1993 Budget Request</i>	<i>Exhibit 1-A</i>
Student Tuition – Haskell Indian Junior College and Southwestern Indian Polytechnic Institute	11
Indian School Equalization Program	13
<i>Intense Bilingual Education</i>	<i>Exhibit 3-A</i>
<i>Intense Residential Guidance</i>	<i>Exhibit 3-B</i>
<i>Student Count</i>	<i>Exhibit 3-C</i>
Advocacy Activities for Public School Students	21
Adult Vocational Training Program	23
<i>Discussion Paper</i>	<i>Exhibit 5-A</i>
Academic and Dormitory Standards	27
<i>Exhibit 6-A</i>	



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
WASHINGTON, D.C. 20245



IN REPLY REFER TO:

APR 1 1992

Dear Tribal Leader/School Board:

In January 1992, the Bureau conducted consultation meetings across Indian Country as a continuation of those held in 1990 and 1991. Each meeting covered education program issues and modifications which were being considered. In all instances, the meetings produced many insightful and worthwhile comments.

In keeping with the commitment of this Office to conduct twice-a-year consultation meetings with the tribes, we are pleased to advise that the second of two meetings for 1992 will be held in July. At the request of tribal participants at the last consultation meeting held in Alaska, the next meeting in Alaska will be held in May rather than July due to seasonal factors.

DATES, SITES AND LOCAL CONTACTS:

The locations, dates and local contacts for the meetings are provided in the draft copy of the Federal Register Notice of the meetings included in this Booklet. Specific meeting locations can be obtained from the local individual contacts which are identified in the Notice for each site.

CONSULTATION PROCESS:

This Office continually seeks ways to improve the consultation process. The regional consultation teams, comprised of BIA and tribal representatives, which planned and conducted the January, 1992 meetings proved quite successful, as did the discussion format used at the meetings. Many favorable comments were received regarding the involvement of tribal representatives as part of a team approach and the opportunity, in the meetings, to discuss areas of concern.

Therefore, the same process will continue for July, 1992 as follows:

1. A Consultation Steering Committee comprised of regional team members will select consultation items; prepare materials and produce a Tribal Consultation Booklet.
2. A Notice announcing consultation meeting dates and locations will be published in the Federal Register.
3. The Tribal Consultation Booklet containing agenda items will be mailed to Tribes and School Boards.
4. Eleven consultation meetings will be conducted by regional consultation teams, using a discussion format, on items included in the Booklet.
5. Regional teams conducting each meeting will encode, on-site, data from comments made during the meeting into a Tribal Consultation Data Base; and, generate a summary report of the day's consultation comments for distribution at the end of that day's meeting.

FORMAT FOR COMMENTS AND RESPONSES:

Since comments from several hundred respondents are anticipated, it will be helpful if all comments and suggestions, written and oral, provide the following information:

1. Consultation Item/topic being addressed.
2. Name of the respondent; AND, Name & Address of organization which respondent represents.

We encourage all tribes and Indian school boards to attend the meetings and provide oral and/or written comments on each item/topic. If there are any questions please do not hesitate to call on the local contact identified for your respective area.

Sincerely,

Edward F. Pausan

Director, Office of Indian
Education Programs

[4310-02]

DEPARTMENT OF THE INTERIOR

Tribal Consultation on Indian Education Topics

AGENCY: Bureau of Indian Affairs, Interior

ACTION: Notice of Tribal Consultation Meetings

SUMMARY: Notice is hereby given that the Bureau of Indian Affairs (BIA) will conduct consultation meetings to obtain oral and written comments concerning changes in Indian education programs currently under consideration. The changes which will be set forth in a tribal consultation booklet to be issued prior to the meetings are as follows:

1. Fiscal Year (FY) 1995 BIA Education Budget Tribal Priorities.
2. Student Tuition - A Proposed Tuition Charge for students at Haskell Indian Junior College and Southwestern Indian Polytechnic Institute.
3. Indian School Equalization Program - Proposals to:
 - A. Eliminate Formula Funding Weight Factors for the Intense Bilingual Education Program.
 - B. Eliminate Formula Funding Weight Factors for the Intense Residential Guidance Program.
 - C. Change Student Count Schedule and Process.
4. Advocacy Activities for Public School Students.
5. Adult Vocational Training - A Discussion Paper regarding OIEP assumption of program administration.
6. Academic and Dormitory Standards.

DATES AND TIME: July 13, 15 & 17, 1992, for all locations listed below, except, Anchorage, AK which will be held May 29, 1992. Scheduling of an earlier date for the Alaska meeting is

in response to requests of tribal participants at the January, 1992 meeting in Anchorage. All meetings will begin at 8:00 a.m. and continue until 3:00 p.m. (local time) on the dates scheduled.

MEETING DATES AND SITES:

MAY 29, 1992

<u>Location</u>	<u>Local Contact</u>	<u>Telephone</u>
1. ALASKA, Anchorage	Robert Pringle	907/271-4115

JULY 13, 1992

1. NEVADA, Reno	Fayetta Babby	916/978-4680
2. NEW MEXICO, Albuquerque	Val Cordova	505/966-3034
3. WISCONSIN, Green Bay	Betty Walker	612/373-1090

JULY 15, 1992

1. WASHINGTON, Seattle	Van Peters	503/230-5682
2. NEW MEXICO, Gallup	Larry Holman	505/786-6150
3. OKLAHOMA, Oklahoma City	Jim Baker	918/687-2460
4. SOUTH DAKOTA, Aberdeen	Jim Davis	701/477-6471

JULY 17, 1992

1. ARIZONA, Phoenix	Beverly Mestes	602/562-3557
2. MONTANA, Billings	Larry Parker	406/657-6375
3. TENNESSEE, Nashville	Lena Sanders	703/235-3233

Written comments concerning consultation meeting items must be received no later than September 4, 1992. Comments should be

mailed to the Bureau of Indian Affairs, Office of Indian Education Programs, MS 3530 MIB, 1849 C. Street, NW, Washington, D.C. 20240, Attn: Mr. Edward Parisian; OR, may be hand delivered to Room 3512 at the same address.

FOR FURTHER INFORMATION CONTACT: Edward Parisian, Joe Christie or Jim Martin at the above address or call 202/208-6123, 208-6175, or 208-3550.

SUPPLEMENTARY INFORMATION: The meetings are a follow-up to similar twice-a-year meetings conducted by the BIA in 1990, 1991 and 1992. The purpose of the consultation is, as required by 25 U.S.C. 2010(b), to provide Indian tribes, school boards, parents, Indian organizations and other interested parties with an opportunity to comment on potential changes or issues being considered by the BIA regarding Indian education programs. A consultation booklet for the July meetings is being distributed to Federally recognized Indian tribes, Bureau Area and Agency Offices and Bureau-funded schools. The booklets will also be available from local contact persons and at each meeting.

DATE:

ASSISTANT SECRETARY - INDIAN AFFAIRS

CONSULTATION ITEM # 1

=====

CONSULTATION ITEM/TOPIC: Fiscal Year (FY) 1995 Education
Budget Priorities

POTENTIAL ISSUE OR CHANGE: Identification of Bureau Edu-
cation program priorities for
the FY 1995 budget.

**REASON FOR PROPOSING ISSUE
OR CHANGE:** To obtain input from Indian
Country regarding Bureau
education program priorities
for the FY 1995 budget.

**CURRENT OPTION(S) BEING
CONSIDERED BY THE BUREAU:** To begin the development of
education program priorities for
the Bureau's FY 1995 education
budget.

BACKGROUND

As a part of formulating the Fiscal Year (FY) 1995 budget, the Bureau is requesting input from Indian Country on possible priorities for education programs funded by the Bureau. The responses will be used to assist the Office of Indian Education Programs (OIEP) in setting education budget priorities for FY 1995.

In addition, this consultation effort to gain input from Indian Country will supplement other upcoming FY 1995 Tribal Budget System efforts which will be made through the Bureau area and agency education offices.

Exhibit 1-A represents the President's FY 1993 BIA education budget request to the Congress. The FY 1993 request is provided for discussion purposes as the FY 1994 budget request is not yet fully developed. While specific dollar amounts may vary from FY 1993 to FY 1994, the basic line items should remain about the same.

The OIEP is, therefore, inviting comments from Indian Country on the following questions as planning begins for the FY 1995 budget:

- Question 1: If the OIEP was provided with additional funding, what education programs/line items should receive top priority?
- Question 2: If the OIEP was faced with a situation of reduced funding what education programs/line items should be reduced?
- Question 3: If the OIEP were to propose a new Tribal initiative what should the initiative be?

EXHIBIT 1-A

**The President's FY 1993 Budget Request to Congress for Bureau
of Indian Affairs' Education Programs**

SCHOOL OPERATIONS:

ISEP (formula funds)	\$	208,966,000
ISEP program adjustments		8,105,000
School Facilities		
Existing Facil. O & M		64,320,000
Existing Facil. New Construction		16,000,000
Existing Facil. Imp. & Repair		41,590,000
Education Employee Housing		1,970,000
Institutionalized Handicapped		2,962,000
Student Transportation		20,015,000
Solo Parent Program		148,000
Area/Agency Technical Support		7,323,000
Substance Abuse Counselors		2,456,000
Administrative Cost Grants		19,748,000
Innovative School Grants		1,700,000

CONTINUING EDUCATION:

Special Higher Ed. Scholarships	1,800,000
Postsecondary Schools	8,432,000
Tribally Cont. Comm. Colleges	
Operating Grants	22,407,000
Endowments	987,000

TRIBAL EDUCATION PROGRAMS:

Scholarships	29,280,000
Adult Education	3,458,000
TCCC Supplement to Grants	1,063,000
Johnson-O'Malley	22,177,000

EDUCATION PROGRAM MANAGEMENT (CO):	4,493,000
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TOTAL REQUEST.	\$ 489,400,000
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CONSULTATION ITEM # 2

=====

CONSULTATION ITEM/TOPIC: Student Tuition - Haskell Indian Junior College and Southwestern Indian Polytechnic Institute.

POTENTIAL ISSUE OR CHANGE: A proposal to implement a student tuition charge at each of the two schools.

REASON FOR PROPOSING ISSUE OR CHANGE: To partially recover a decrease of \$1,139,000 expected in the FY 1993 funding level.

CURRENT OPTION(S) BEING CONSIDERED BY THE BUREAU: To reduce program availability, reduce program staff, limit student enrollment.

BACKGROUND

Administrative guidance in the preparation of the President's FY 1993 budget directed that tuition be charged at Haskell Indian Junior College and the Southwestern Indian Polytechnic Institute similar to that charged by the Tribally Controlled Community Colleges to supplement operational funds.

The Office of Management and Budget in recent years has suggested such a charge based on the belief that people value something more highly if they have made a contribution. There was a negative reaction to this proposal by the Indian Communities nation-wide, because of the lack of available financial resources by individual families to support their children financially. The two schools are already charging students modest fees for processing transcripts, book fees, activity cards, and other academic and non-academic activities that require some financial assistance.

The reauthorization of the Higher Education Act includes a proposal to increase the amount of Pell Grant awards for which students will be eligible in the Fall term. This would offset the cost of the tuition that students would be paying. This, in addition to other available campus based financial aid would provide further assistance to students in making tuition payments.

Haskell and the Southwestern Polytechnic Institute have not been singled out for any particular reason, they continue to fulfill the need of Native Americans who wish to further their education at the post secondary level. The Bureau anticipates that students at both institutions will be eligible for Pell Grant awards and other campus based financial aid as well as the Bureau's Higher Education Grant Program.

CONSULTATION ITEM # 3

=====

CONSULTATION ITEM/TOPIC: The Indian School Equalization
Program (ISEP)

POTENTIAL ISSUE OR CHANGE: To revise selected sections
of the ISEP regulations (25
CFR 39)

**REASON FOR PROPOSING ISSUE
OR CHANGE:** To fully implement P.L. 95-561
and support the concept of
Indian self-determination by
moving programs and funding
to the lowest level, the
schools.

**CURRENT OPTION(S) BEING
CONSIDERED BY THE BUREAU:** To publish attached revisions to
the ISEP in the Federal Register
as proposed amendments to 25 CFR
39.

BACKGROUND

The proposed changes, including an explanation of each and the section(s) of the regulations which will be affected by the changes are described as follows:

INTENSE BILINGUAL (Exhibit 3-A)

This exhibit shows proposed amendments to §39.2 (p) (4) and §39.11 (g) to eliminate the definition of, and reference to Intense Bilingual and place the responsibility for implementing this type of program with the local school board.

The Bureau also proposes to delete the .20 weight for bilingual students as set out in §39.12

INTENSE RESIDENTIAL GUIDANCE (Exhibit 3-B)

This exhibit shows proposed amendments to §39.2 (p) (6) and §39.11 (h) to eliminate the definition of, and reference to Intense Residential Guidance and place the responsibility for implementing this type of program with the local school board.

The Bureau proposes to delete the .50 weight for Intense Residential Guidance as set out in §39.12.

SUBPART C--FORMULA FUNDING (Exhibit 3-C)

This exhibit shows proposed changes to the definition of count week as set out in §39.30 and offers three options. These options are not limited and the Bureau encourages consultation meeting participants to present other alternatives.

The change is necessary due to the change in the funding cycle.

The options are:

- (1) Count students present for one full week in April for the purpose of calculating allotments to be distributed in July.

BACKGROUND (Cont'd)

Count students for one full week in September for the purpose of calculating allotments made as an adjustment in December.

- (2) Use Average Daily Attendance computed the previous year for the purpose of calculating the allotments. A 1-year phase-in would be required. Schools would provide attendance on a weekly basis to the Agency and Area office for averaging over a six month period. The Area/Agency would provide the average to the Central Office for funding in April and September.
- (3) Keep the count week as it is now, but change the formula to allow better utilization of funds.

EXHIBIT 3-A

INTENSE BILINGUAL EDUCATION

=====

§39.11 Definitions

Current

(g) *"Intense Bilingual" means a weighted program for a student who is present during the count week, whose primary language is not English, and who is receiving academic instruction daily through oral and/or written forms of an Indian or Alaskan Native language, as well as specialized instruction in English for non native speakers of English, under resources of the ISEP.*

Proposed

Delete all provisions of this subsection and redesignate subsequent subsections.

§39.12 Entitlement for instructional purposes

<i>Supplemental program</i>	<i>Addon Weight</i>
<i>Intense Bilingual</i>	<i>.20</i>

Delete all provisions of this section and redesignate subsequent subsections.

EXHIBIT 3-B

INTENSE RESIDENTIAL GUIDANCE

=====

§39.11 Definitions

Current

(h) *"Intensive residential guidance" means the weighted program for a resident student that needs special residential services due to one or more of the problems identified below, and that appropriate documentation is in that student's file as follows:*

(1) Presenting problem:

(i) Court of juvenile authority request for placement resulting from a pattern of infractions of the law.

(ii) Expulsion from previous school under due process.

(iii) Referral by a licensed psychologist, psychiatrist or certified psychiatric social worker as an emotionally disturbed student.

(iv) History of truancy more than 50 days in the last school year or a pattern of extreme disruptive behavior.

(2) Documentation required:

(i) Written request signed by officer of court of juvenile authority;

(ii) Certification by expelling school;

(iii) Psychologist, certified psychiatric social worker, or psychiatrist report; or

(iv) Attendance and behavior data from records of prior school, court records, or from social agency records and a written documentation summarizing such data. For all students placed in intensive residential guidance programs, there shall be further documentation of a diagnostic workup, a placement decision by a minimum of three staff members, and a record of an individualized treatment plan for each student that specifies service objectives.

Proposed

Delete all provisions of this subsection and redesignate subsequent subsections.

EXHIBIT 3-B (Cont'd)

INTENSE RESIDENTIAL GUIDANCE

=====

Current

(v) No student shall be classified under "Intense residential guidance" who is eligible for services at a full time or part time service level because of a handicapping condition as defined under Exceptional Child programs in paragraph (i) of this section.

Proposed

Delete all provisions of this section and redesignate subsequent subsections.

§39.13 Entitlement for residential purposes

<i>Base Program</i>	<i>Addon Weight</i>
<i>Intensive Residential Guidance</i>	<i>.50</i>

Delete all provisions of this section and redesignate subsequent subsections.

EXHIBIT 3-C

ISEP STUDENT COUNT

=====

§39.30 Definitions

Current

(b) "Count week" means the last full week in September for the purposes of calculating allotments.

Proposed

To amend by changing count week dates. The following are provided as options for consultation:

(1) Count students present for one full week in April for the purpose of calculating allotments distributed in July.

Count students for one full week in September for the purpose of calculating allotments made as an adjustment in October.

(2) Use Average Daily Attendance (ADA) computed the previous year for the purpose of calculating the allotments. A one-year phasein period would be required. Schools would provide attendance on a weekly basis to the Area/Agency office for averaging over a six month period. The Area/Agency would provide the certified average to the Central Office for funding in April and September.

(3) Keep the count week as it is now, but change the formula to allow better utilization of funds.

CONSULTATION ITEM # 4

=====

CONSULTATION ITEM/TOPIC:	Advocacy activities for Indian children/students attending public schools.
POTENTIAL ISSUE OR CHANGE:	To identify current and new advocacy activities and efforts for Indian children attending public schools.
REASONS FOR PROPOSING ISSUE OR CHANGE:	To follow-up on this concept as raised during previous tribal consultation meetings.
CURRENT OPTION(S) BEING CONSIDERED BY THE BUREAU:	To obtain comments from Indian country on specific questions regarding advocacy for Indian students attending public schools.

BACKGROUND

During previous tribal consultation meetings, many individuals stressed a need for focusing attention on the education of Indian children attending public schools across the country. Since a significant portion of Indian children attend public schools, it was pointed out that Tribes, the Federal Government, states and other organizations could do more in the way of being advocates for these Indian children. Participants stated that if Indian students knew that the tribes, Federal Government, states or other organizations were their advocates, they would make better grades, stay in school until they graduate and, in general, realize that the community cares about their education progress. Participants in the consultation meetings further stated that any long range goals of the Tribes and the Bureau should include advocacy activities aimed towards all Indian children, regardless of where they attend school.

This consultation item is being proposed as a follow-up to the interest expressed in previous tribal consultation meetings. The purpose of this consultation item is to identify activities or efforts which, when implemented by Tribes, the Federal Government, states or other organizations, would increase the level of advocacy for Indian children attending public schools. To better identify those possible advocacy activities in your community, the following questions are being asked.

Question 1: What types of advocacy activities or efforts are being implemented today by Tribes, the Federal Government, states or other organizations in your community or state which are aimed at being an advocate for Indian children attending public schools?

Question 2: Are there other advocacy activities or efforts which could be initiated or implemented by Tribes, the Federal Government, states or other organizations in your community or state which would increase the level of advocacy for Indian children attending public schools.

CONSULTATION ITEM # 5

=====

CONSULTATION ITEM/TOPIC:
(Discussion Item Only)

Adult Vocational Training (AVT)
Program

POTENTIAL ISSUE OR CHANGE:

To consider whether the Office of Indian Education Programs should assume administrative responsibility for the Adult Vocational Training Program.

REASONS FOR PROPOSING ISSUE
OR CHANGE:

Comments from previous consultation meetings have requested that consideration be given to having the Office of Indian Education Programs administer AVT as an education program.

CURRENT OPTION(S) BEING
CONSIDERED BY THE BUREAU:

This item is a discussion item only and does not include any specific option or proposal for consideration. Rather, the item is offered for discussion and to obtain the views of Indian country.

BACKGROUND

The Adult Vocational Training (AVT) program is one which the Secretary of the Interior is authorized to undertake to provide counseling, guidance, institutional training in any recognized vocations or trades, apprenticeships and on-the-job training.

AVT is available to help meet the basic and special training needs of eligible Indian applicants. The Bureau currently uses approximately 400 vocational training institutions for training and placing students in suitable employment upon graduation.

Courses provided by these institutions include welding, auto mechanics, computer programming, secretarial skills, registered nursing, cosmetology and x-ray technology.

The program is available to adult Indians, 18-35 years of age, who are members of a federally recognized tribe and reside on or near an Indian reservation.

Applicants are assisted in the selection of their training programs through personal counseling and interpretation of aptitude skills' test results. Current annual appropriations is approximately \$17 Million.

At one time the AVT program was administered by the Bureau's Education Office. However, in recent years, the program has been administered by the Office of Tribal Services which also has responsibility for the Bureau's Employment Assistance Program.

EXHIBIT 5-A

During prior tribal consultation meetings, many participants commented that the AVT program should, because of its educational nature, be administered by the Bureau's Office of Indian Education Programs.

The Bureau's purpose for including this topic as an agenda item is strictly for the purpose of providing Indian tribes and organizations an opportunity to express their views concerning whether the AVT might more appropriately be administered by the Bureau's Office of Indian Education Programs.

The Office of Indian Education Programs is, therefore, inviting comments on the question; and, for purposes of gaining comments, this discussion item is posed in the form of a question, as follows:

Should the Adult Vocational Training (AVT) Program be administered and operated by the Bureau's Office of Indian Education Programs?

Commentors are asked to:

1. State AGREEMENT OR DISAGREEMENT with the question; and, offer a rationale for their position.

CONSULTATION ITEM # 6

=====

CONSULTATION ITEM/TOPIC: **A c a d e m i c / D o r m i t o r y
Standards**

POTENTIAL ISSUE OR CHANGE: **To revise selected sections
of Academic Standards
regarding Philosophy and
Goals and Waivers and
Revisions. (25 CFR 36)**

**REASON FOR PROPOSING ISSUE
OR CHANGE:** **To incorporate recommenda
tions of Effective Schools
Research and other recent
research on education re-
form, and make standards
compatible with state and
regional accreditation
practices.**

**CURRENT OPTION(S) BEING
CONSIDERED BY THE BUREAU:** **To publish the attached
revision(s) in the Federal
Register as proposed amendments
to 25 CFR 36 - Minimum Academic
Standards for the Basic
Education of Indian Children
and National Criteria for
Dormitory Situations.**

BACKGROUND

Effective Schools Research and the current Outcomes Accreditation movement both place great emphasis on the idea that schools must develop their own philosophies, goals and mission statements in concert with the needs of the students, the school, and the community so that these statements are truly unique from school to school. The current Bureau Academic Standards provide a section, under Part 36.10, which outlines what must be included in a school's philosophy statement. In keeping with current thinking on this matter, it is proposed to delete this section to allow schools more flexibility in the determination of their own philosophies, goals and mission statements.

At present, the Academic Standards require that "waivers and revisions must be submitted at least 75 days prior to the beginning of the school term." This requirement has been unworkable for most school programs because they have not known their funding levels until well after school has started and, therefore, did not know whether or not they would be able to meet all standards. It is proposed to change the time for submission of the annual standards compliance report which has been in November of each year.

The Bureau believes that its academic standards should be working guideline requiring constant modification to ensure that schools subject to those regulations constantly upgrade and improve.

PROPOSED CHANGES

The proposed changes, including an explanation for each and sections of the regulations which will be affected by the changes, are described as follows:

SECTION PROPOSED CHANGE AND REASON FOR PROPOSING CHANGE

PHILOSOPHY REQUIREMENTS

- 36.10 Proposed Change: To amend subsection (a) by deleting the section which outlines what shall be included in a school's philosophy.

The reason for this proposed deletion is to allow schools the flexibility to develop their own unique philosophy statements.

REVISED STANDARDS TIME REQUIREMENTS

- 36.61 Proposed Change: To amend this section by changing the time for submission of waivers and revised standards from at least 75 days prior to the beginning of the school term to requiring that they accompany the annual standards compliance reports due to OIEP Central Office in November.

The reason for this change is to make the due date for waivers and revised standards compatible with the submission of the annual standards compliance reports so that schools will be able to report their standards compliance status and the need for revised standards concurrently and with more accurate information regarding funding levels.

EXHIBIT 6-A

36.10 Philosophy and Goals

=====

Current

36.10 (a) Each school shall develop a written philosophy of education that addresses the accumulation of knowledge and development of skills, interests, appreciations, ideals, and attitudes within the school's total educational program. The educational philosophy shall include but not be limited to: Conservation of tribal culture and natural resources, values of democracy, devotion to equality, individual freedom, political liberty, democratic process, and the mastery of knowledge. The statement of goals shall include a statement of what the school is attempting to do to meet the needs and interests of its students and community, in accordance with the statement of philosophy.

Proposed

36.10 (a) Each school shall develop a written philosophy of education that addresses the accumulation of knowledge and development of skills, interests, appreciations, ideals, and attitudes within the school's total educational program. The statement of goals shall include a statement of what the school is attempting to do to meet the needs and interests of its students and community, in accordance with the statement of philosophy

TRIBAL CONSULTATION BOOKLET

U. S. DEPARTMENT OF THE INTERIOR

BUREAU OF INDIAN AFFAIRS



U.S. DEPARTMENT OF EDUCATION
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OFFICE OF INDIAN EDUCATION PROGRAMS

JANUARY 1993

LEGISLATIVE AUTHORITY

Section 1130 of Public Law 95-561, as amended, states:

"It shall be the policy of the Secretary and the Bureau in carrying out the functions of the Bureau, to facilitate Indian control of Indian affairs in all matters relating to education . . . with active consultation with tribes . . . [by] a process involving the open discussion and joint deliberation of all options with respect to potential issues or changes between the Bureau and all interested parties. . . [and]

During such discussions and joint deliberations, interested parties (including, but not limited to, tribes and school officials) shall be given an opportunity to present issues including proposals regarding changes in current practices or programs which will be considered for future action by the Bureau."

IMPLEMENTATION PROCESS

In 1991, the Bureau of Indian Affairs formally initiated a process intended to fulfill the P. L. 95-561 consultation mandates; and, the Office of Indian Education Programs (OIEP), as a matter of policy, committed to regularly scheduled, twice-a-year consultation meetings across Indian Country. It is intended that the meetings afford Indian tribes, parents, schools and interested parties the opportunity to consider, discuss and propose options for the resolution of issues relating to education programs and to offer alternatives to changes which the Bureau may be considering.

The meetings are planned and conducted by Regional Consultation Teams, each comprised of Tribal Representatives, Area/Agency Education Line Officers and Central Office Education staff; and, are held in eleven (11) locations during January and again in July each year. The results of all consultation meetings are presented to the Director and staff, OIEP, for use in daily operations and future planning. The overall Tribal consultation effort is organized and maintained by the Branch of Planning, OIEP.

TRIBAL CONSULTATION

January 1993



PLANNING, OVERSIGHT AND EVALUATION

Branch of Planning

LOCAL CONTACT PERSONS

Consultation meeting information may be obtained from the local contacts listed on the inside back cover.

WRITTEN COMMENTS

Written Comments must be received by February 17, 1993; and, should be mailed or hand delivered to:

*Bureau of Indian Affairs
Office of Indian Education Programs
MS-3530 MIB
1849 C. Street, NW
Washington, D.C. 20240*

Attn: Dr. John Tippeconnic

FOR FURTHER INFORMATION CONTACT

*Dr. John Tippeconnic, Director,
Office of Indian Education Programs
202/208-6123*

*Dr. James Martin, Chief,
Planning, Oversight and Evaluation
202/208-3550*

CONTENTS

Section

Page

Consultation Authority and Process	Front Inside Cover
Tribal Leader/School Board Letter	1
Federal Register Notice	3

Consultation Items

Proposed Amendments to P.L. 100-297	7
Education Facilities' Space Guidelines	13
Full Inclusion of Children with Disabilities in Regular Education	49
Americans With Disabilities Act	55
Reauthorization of Elementary and Secondary Education Programs	59
School Boundaries	63
Off-Reservation Boarding Schools	65

Appendix--Status Report of July 1992 Consultation Items

FY 1995 Education Budget Tribal Priorities	69
Student Tuition - HJJC/SIPI	73
ISEP - Bilingual Education, IRG and Student Count (Not Reported)	--
Advocacy Activities for Public School Students	74
Adult Vocational Training	76
Standards - Philosophy Requirements; and, Waivers and Revisions.	77



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
WASHINGTON, D.C. 20245



IN REPLY REFER TO:

10 NOV 1992

Dear Tribal Leader/School Board:

In keeping with the commitment of this Office to conduct twice-a-year consultation meetings with the tribes, we are pleased to advise that the first set of meetings for 1993 on education matters will be held in January.

DATES, SITES AND LOCAL CONTACTS:

The locations, dates and local contacts for the meetings are provided in the draft copy of the Federal Register Notice of the meetings included in this Booklet. Specific meeting locations can be obtained from the local individual contacts which are identified in the Notice for each site.

CONSULTATION PROCESS:

The meetings will use a discussion format and be conducted by regional consultation teams, comprised of BIA and tribal representatives as was done during 1992. Overall, the process used in 1992 will remain the same for the 1993 meetings, as follows:

1. A Consultation Steering Committee of regional team members will select consultation items; prepare materials and produce a Tribal Consultation Booklet.
2. A Notice announcing consultation meeting dates and locations will be published in the Federal Register.
3. The Tribal Consultation Booklet containing agenda items will be mailed to Tribes and School Boards.

4. Eleven consultation meetings will be conducted by the regional consultation teams, using a discussion format, on items included in the Booklet.
5. Regional teams conducting each meeting will encode, on-site, data from comments made during the meeting into a Tribal Consultation Data Base; and, generate a summary report of the day's consultation comments for distribution at the end of that day's meeting.

FORMAT FOR COMMENTS AND RESPONSES:

Since comments from several hundred respondents are anticipated, it will be helpful if all comments and suggestions, written and oral, provide the following information:

1. Consultation Item/topic being addressed.
2. Name of the respondent; AND, Name & Address of organization which respondent represents.

We encourage all tribes and Indian school boards to attend the meetings and provide oral and/or written comments on each item/topic. If there are any questions please do not hesitate to call on the local contact identified for your respective area.

Sincerely,



Director, Office of Indian
Education Programs

[4310-02]

DEPARTMENT OF THE INTERIOR

Tribal Consultation on Indian Education Topics

AGENCY: Bureau of Indian Affairs, Interior

ACTION: Notice of Tribal Consultation Meetings

SUMMARY: Notice is hereby given that the Bureau of Indian Affairs (BIA) will conduct consultation meetings to obtain oral and written comments concerning potential issues in Indian education programs. The potential issues which will be set forth in a tribal consultation booklet to be issued prior to the meetings are as follows:

1. Proposed Amendments to P.L. 100-297
2. Education Facilities' Space Guidelines
3. Full Inclusion of Children with Disabilities in Regular Education
4. Americans With Disabilities Act
5. Reauthorization of Elementary and Secondary Education Programs
6. School Boundaries
7. Off Reservation Boarding Schools

DATES/LOCATIONS: January 11, 13, 15, 1993, at locations listed below. All meetings will begin at 8:00 a.m. and continue until 3:00 p.m. (local time) on the dates scheduled.

MEETING DATES AND SITES:

JANUARY 11, 1993

<u>Location</u>	<u>Local Contact</u>	<u>Telephone</u>
1. CALIFORNIA, Riverside	Fayetta Babby	916/978-4680

- | | | | |
|----|-------------------------|--------------|--------------|
| 2. | NEW MEXICO, Albuquerque | Val Cordova | 505/766-3034 |
| 3. | MINNESOTA, Minneapolis | Betty Walker | 612/373-1090 |

JANUARY 13, 1993

- | | | | |
|----|-------------------------|--------------|--------------|
| 1. | WASHINGTON, Spokane | Van Peters | 503/230-5682 |
| 2. | NEW MEXICO, Gallup | Larry Holman | 505/786-6150 |
| 3. | SOUTH DAKOTA, Aberdeen | Jim Davis | 701/477-6471 |
| 4. | OKLAHOMA, Oklahoma City | Jim Baker | 405/945-6051 |

JANUARY 15, 1993

- | | | | |
|----|----------------------|----------------|--------------|
| 1. | ALASKA, Anchorage | Robert Pringle | 907/271-4115 |
| 2. | ARIZONA, Phoenix | Beverly Mestes | 602/562-3557 |
| 3. | MONTANA, Billings | Larry Parker | 406/657-6375 |
| 4. | TENNESSEE, Nashville | Lena Mills | 703/235-3233 |

ADDRESS FOR WRITTEN COMMENTS:

Written comments concerning consultation meeting items must be received no later than February 17, 1993. Comments should be mailed to the Bureau of Indian Affairs, Office of Indian Education Programs, MS-3530 MIB, 1849 C. Street, NW, Washington, D.C. 20240, Attn: Dr. John Tippeconnic; OR, may be hand delivered to Room 3510 at the same address.

FOR FURTHER INFORMATION CONTACT: Dr. John Tippeconnic or Dr. Jim Martin at the above address or telephone 202/208-6123 or 208-3550.

SUPPLEMENTARY INFORMATION: The meetings are a follow-up to similar twice-a-year meetings begun by the BIA in 1990. The purpose of the consultation is, as required by 25 U.S.C. 2010(b), to provide Indian tribes, school boards, parents, Indian organizations and other interested parties with an opportunity to comment on

potential issues raised during previous consultation meetings or being considered by the BIA regarding Indian education programs. A consultation booklet for the January meetings is being distributed to Federally recognized Indian tribes, Bureau Area and Agency Offices and Bureau-funded schools. The booklets will also be available from local contact persons and at each meeting.

DATE:

ASSISTANT SECRETARY - INDIAN AFFAIRS

CONSULTATION ITEM # 1

CONSULTATION ITEM/TOPIC:

The concept of expanding the current authorities provided under P.L. 100-297, Tribally Controlled School Grants.

POTENTIAL ISSUE OR CHANGE:

To propose legislative amendments to the Congress which would amend and expand the authorities and provisions of P.L. 100-297.

REASON FOR PROPOSING ISSUE OR CHANGE:

To further the original intent of P.L. 100-297 by including granting authority to BIA education personnel for additional education programs such as Johnson-O'Malley, higher education scholarships, and adult education. Such grants would be an alternative to current P.L. 93-638 contracting authority.

CURRENT OPTION(S) BEING CONSIDERED BY THE BUREAU:

To propose legislative changes to the Congress regarding additional granting authority for BIA education personnel.

BACKGROUND

Public Law 100-297 was enacted into law on April 28, 1988 and authorized the Bureau's education personnel to award school operations grants to Tribes and Tribal organizations. Such grants were to be awarded by education personnel under the direction of the Director, Office of Indian Education Programs, and were an alternative to P.L. 93-638 contracts. Funds to be included in these P.L. 100-297 school operational grants included ISEP, Chapter I, Exceptional Education, administrative costs and other school related program funds.

These grants were available to Tribes and Tribal organizations operating Bureau funded schools beginning with FY 1989. Since their availability, the majority of Tribal schools operating under P.L. 93-638 contracts have converted to the P.L. 100-297 grants. Overall, the award and administration of such grants has worked well for the Bureau and the grant recipients during the last four years.

In view of the effectiveness of the school operation grants operating under the authority of P.L. 100-297, the Bureau is considering proposing to increase the number and type of Bureau programs which would be available to Tribes, Tribal organizations and states/public school districts under these grants. Currently, Johnson-O'Malley, higher education scholarships and adult education programs are available to Tribes, Tribal organizations and states/public school districts through P.L. 93-638 contracts. Due to time delays being experienced in the award and modification of P.L. 93-638 contracts for Johnson-O'Malley, higher education scholarship and adult education programs, the OIEP is proposing that current contractors be given the opportunity to operate such education programs through the new P.L. 100-297 grant process.

QUESTION: Does Indian country support amendments to P.L. 100-297, The Tribally Controlled Schools Act of 1988, which would expand the programs eligible for grants under the act to include Johnson-O'Malley, higher education scholarship and/or adult education programs?

EXHIBIT 1-A

Proposed Amendments to P.L. 100-297

CURRENT	PROPOSED
Section 5204 - Grants Authorized	Section 5204 - Grants Authorized
(a) In General	(a) <u>School Operation Grants</u>
(1) The Secretary shall provide grants to Indian tribes, and tribal organizations, that	(1) The Secretary shall provide grants to Indian tribes, and tribal organizations, that
(A) operate contract schools	(A) operate contract schools
(B) operate other tribally controlled schools	(B) operate other tribally controlled schools
(C) elect to assume operation of Bureau schools	(C) elect to assume operation of Bureau schools
	(b) <u>Other Grants</u>
	(1) The Secretary shall provide grants to Indian Tribes, tribal organizations and states/school districts that -
	(A) operate higher education scholarship, adult education and/or Johnson-O'Malley education programs for eligible students as defined by the applicable regulations.
(b) Limitations	(c) Limitations
(1) No more than one grant	(1) No more than one grant

EXHIBIT 1-A (Cont'd)

CURRENT	PROPOSED
<p>Section 5205 Composition of Grants</p> <p>(a) In general</p> <p><i>The grant provided under this chapter to an Indian tribe or tribal organization for any fiscal year shall consist of -</i></p> <p>(1) <i>the total amount ...</i> (2) <i>to the extent requested ...</i></p> <p>(b) Special rules</p>	<p>Section 5205 Composition of Grants</p> <p>(a) <u>School Operation Grants</u></p> <p>The grant provided under this chapter to an Indian tribe or tribal organization for any fiscal year shall consist of -</p> <p>(1) the toal amount (2) to the extent requested ...</p> <p>(b) <u>Other Grants</u></p> <p>The grant provided under this section to an Indian tribe, tribal organization or state/school district shall consist of -</p> <p>(1) higher education scholarship funds, adult education funds and/or Johnson-O'Malley funds</p> <p>(c) <u>Special Rules</u></p>
<p>Section 5206 Eligibility for Grants</p> <p>(a) In General</p> <p>(1) <i>A tribally controlled school is eligible for assistance under this chapter if the school -</i></p> <p>(A) <i>was on April 28, 1988 a contract school</i></p>	<p>Section 5206 Eligibility for Grants</p> <p>(a) <u>School Operation Grants</u></p> <p>(1) A tribally controlled school is eligible for assistance under this chapter if the school -</p> <p>(A) was on April 28, 1988, a contract school</p>

EXHIBIT 1-A (Cont'd)

CURRENT	PROPOSED
<p><i>(B) was a Bureau school</i></p> <p><i>(C) is a school</i></p> <p><i>(D) is a school with respect ..</i></p> <p><i>(2) Any application which has been submitted under the</i></p>	<p>(B) was a Bureau school</p> <p>(C) is a school</p> <p>(D) is a school with respect..</p> <p>(2) Any application which has been submitted under the</p>
	<p>(b) Other Grants</p> <p>(1) A Tribe, tribal organization or school district is eligible for assistance under this chapter if the entity -</p> <p>(A) submits an application to the Bureau for the appropriate fiscal year for the Johnson-O'Malley, higher education scholarship or adult education programs.</p> <p>(B) such application for the three programs follows the educational services contained in the Code of Federal Regulations</p>
<p><i>(b) Additional requirements</i></p>	<p>(c) <u>Additional Requirements</u></p>
<p>Section 5208 Payment of grants-Investment of funds</p>	<p>Section 5208 Payment of grants-Investment of funds</p>
<p>(a) Payments</p> <p>(1) Except as otherwise</p>	<p>(a) Payments</p> <p>(1) Except as otherwise</p>

EXHIBIT 1-A (Cont'd)

CURRENT	PROPOSED
<p data-bbox="194 357 530 393"><i>(b) Investment of Funds</i></p> <p data-bbox="194 431 745 808"><i>(1) Notwithstanding any other provision of law, any interest or investment income that accrues on any funds provided under this chapter after such funds are paid to the Indian tribe or tribal organization and before such funds are expended for the purpose for which such funds were provided under this chapter shall be the property of the Indian tribe or tribal organization</i></p> <p data-bbox="204 825 287 846">.....</p>	<p data-bbox="778 357 1113 393">(b) Investment of Funds</p> <p data-bbox="778 431 1314 953">(1) Notwithstanding any other provision of law, any interest or investment income that accrues on any funds provided under this chapter after such funds are paid to the <u>Indian tribe, tribal organization or state/school district</u> and before such funds are expended for the purpose for which such funds were provided under this chapter shall be the property of the Indian tribe, tribal organization, <u>or state/school district, provided such funds are used for educational purposes,.....</u></p>

CONSULTATION ITEM # 2

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CONSULTATION ITEM/TOPIC:

Education Space Guidelines

POTENTIAL ISSUE OR CHANGE:

To provide guidelines to use in determining the space in BIA school facilities necessary to meet the needs of the education program and activities.

REASON FOR PROPOSING ISSUE OR CHANGE:

To provide adequate space for education programs and activities, yet ensure that the limited funding for BIA school facilities is applied to meeting the most critical education needs.

CURRENT OPTION(S) BEING CONSIDERED BY THE BUREAU:

To include the attached guidelines in the Bureau of Indian Affairs Manual (BIAM).

BACKGROUND

The Facilities Management and Construction Center and the Office of Construction Management, in conjunction with the Office of Indian Education Programs (OIEP), are developing Education Space Guidelines (EXHIBIT 2-A) to include in the Bureau of Indian Affairs Manual (BIAM) as a supplement. These guidelines are intended to provide guidance for determining educational facility space needs, evaluating educational facility space utilization efficiency, and planning, designing and constructing education facilities.

Education programs and activities and enrollment are, however, the primary determinants of education space requirements. Spaces must fit the programs rather than have the programs conform to the space. The intent of the guidelines is to provide adequate space to meet the needs as determined by the education program and activities and enrollment.

In drafting the proposed guidelines, consideration was given to education program requirements in the Code of Federal Regulation (CFR), previous education space guidelines, various state and regional accreditation standards, several studies relating to education space standards and U.S. Departments of Education, Defense, and Agriculture guidelines.

The BIA recognizes that education programs, philosophies, and accreditation standards may vary from school to school. Where possible the proposed guidelines provide flexibility not only to meet the current variety of education programs, philosophies, and accreditation standards, but to meet future needs as education needs and requirements change.

We are inviting comments from Indian Country on the following questions concerning the Education Space Guidelines being proposed or other any other comments or suggestions regarding the guidelines:

- Question 1: Are there areas in the proposed education space guidelines that should provide more flexibility? How should that flexibility be provided and what is the reason more flexibility is needed?
- Question 2: Are there educational programs and activities that have not been provided for that should be included in the proposed guidelines? If so, what are they and what guidelines should be provided?
- Question 3: Are there space allocations that fail to meet state or regional accreditation standards? If so, what space allocation based on what state or regional accreditation standards?
- Question 4: Are there areas or space allocations that should be eliminated from the proposed education space guidelines? If so, why should they be eliminated?

EXHIBIT 2-A

Education Space Guidelines

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Table of Contents

1. General

- .1 Purpose**
- .2 Policy**
- .3 Authorities**

2. Elementary Schools

- .1 Elementary Schools**
- .2 Gross Square Footage**
- .3 Classrooms**
- .4 Special Program Classrooms**
- .5 Administration**
- .6 Music Room**
- .7 Media Center (Library)**
- .8 Multi-purpose Room**
- .9 Rest Rooms**
- .10 Kitchen and Dining Room**
- .11 Auditoriums**
- .12 Swimming Pools**
- .13 Play Area**

3. Middle/Junior High Schools

- .1 Middle/Junior High Schools**
- .2 Gross Square Footage**
- .3 Classrooms**
- .4 Special Program Classrooms**
- .5 Administration**
- .6 Music Room**
- .7 Media Center (Library)**
- .8 Gymnasium**
- .9 Rest Rooms**
- .10 Kitchen and Dining Room**
- .11 Auditoriums**
- .12 Swimming Pools**
- .13 Playing Fields**

4. High Schools

- .1 High Schools**
- .2 Gross Square Footage**
- .3 Classrooms**
- .4 Special Program Classrooms**
- .5 Administration**
- .6 Music Room**
- .7 Media Center (Library)**
- .8 Gymnasium**
- .9 Rest Rooms**
- .10 Kitchen and Dining Room**
- .11 Auditoriums**
- .12 Swimming Pools**
- .13 Football Field and Track**

5. Dormitories - Grades 1 through 8

.1 Residential Area

- A. Sleeping Rooms**
- B. Rest Rooms**
- C. Isolation Health Care Sleeping Room**
- D. Administration**
- E. Dorm Secretary Office**
- F. Intensive Residential Guidance Counselor Offices**
- G. Home Living Specialist Office**
- H. Quiet Rooms**
- I. Conference Rooms**

.2 Support Space

- A. Living Room**
- B. Family Room**
- C. Study Rooms**
- D. Storage**
- E. Laundry and Ironing Rooms**

.3 Play Area

6. Dormitories – Grades 9 through 12

.1 Residential Area

- A. Sleeping Rooms**
- B. Rest Rooms**
- C. Isolation Health Care Sleeping Room**
- D. Administration**
- E. Dorm Secretary Office**
- F. Intensive Residential Guidance Counselor Offices**
- G. Home Living Specialist Office**
- H. Quiet Rooms**
- I. Conference Rooms**

.2 Support Space

- A. Living Room**
- B. Family Room**
- C. Study Rooms**
- D. Storage**
- E. Laundry and Ironing Rooms**

.3 Recreational Area

7. Quarters

.1 Quarters

8. Site and Miscellaneous Facilities

- .1 Site**
- .2 Bus Garages and/or Yards**
- .3 Facilities Maintenance Shops**

1. General

1.1 Purpose.

A. The Bureau of Indian Affairs (Bureau) is responsible for providing facilities to support educational programs for eligible Indian children. These guidelines are intended to provide guidance for planning new schools, renovating existing schools, and evaluating the adequacy of existing school facilities. It is important that guidelines be established and used to ensure that appropriated funding resources are applied to the most critical education facilities needs.

B. This manual release supersedes any guidelines used or previously issued in conjunction with Bureau education facilities; except that, if any of the provisions contained in this supplement are inconsistent with rules and regulations contained in Title 25 of the Code of Federal Regulations (CFR), Subchapter E - Education, the provision of the rules and regulations contained in Subchapter E shall control.

C. When state and/or regional education accreditation associations require more space than is provided for in these guidelines, additional space will be considered. When more space is recommended than is provided for in these guidelines by state and/or regional education accreditation associations, additional space may be considered based on determined need.

1.2 Policy.

A. Educational programs and activities and enrollment are the primary determinants of education space requirements. Spaces must fit the program rather than have the programs conform to the space. Facilities must accommodate the education program needs in accordance with Bureau standards and state and regional accreditation requirements. It is important for the education program to be fully defined and agreed upon early in the planning stage. Space requirements, construction, and operation and maintenance costs will be influenced and affected by program organization and space utilization.

B. Bureau schools are constructed to meet the educational needs of eligible Indian children, as defined in 25 U.S.C. § 2008(f). Although staff and community needs are to be considered, Bureau schools are not primarily for community activities and non-school use. Certainly the community is encouraged to use the school, but space specifically for the community's use are not usually addressed under education facilities construction.

C. Bureau schools are to be constructed or improved and repaired so as to comply with all applicable health and safety codes and standards as adopted in Part 50, Health and Safety Inspection Program, of 25 CFR.

D. Bureau schools are to be constructed or improved and repaired so as to comply with the Uniform Federal Accessibility Standards, Section 504 of the Rehabilitation Act of 1974 and the Americans with Disabilities Act of 1990.

E. There are a variety of factors which affect the amount of space that can be provided for an educational program. They are based upon construction costs, state and federal government regulations, environmental and conservation practices, and other factors related more directly to the education program, such as:

(1) Education program requirements and standards. The most important factor to consider when allocating space for a school is the education program. The facility spaces must be designed to fit a basic education program. The local school establishes the teaching methods and determines which learning process should be emphasized. Curriculum requirements are established by the BIA, state and tribal Departments of Education and tribal school boards.

(2) Current and projected school enrollment. The number of students in school is the second most important factor in determining the school's size. It determines the number of classrooms and overall gross square footage of the facility.

(3) Teacher-pupil ratio and staffing patterns. Teacher-student ratios are specified in 25 CFR Part 36--Minimum Academic Standards for the Basic Education of Indian Children and National Criteria for Dormitory Situations. Class sizes vary according to the courses offered and/or the grade levels included.

(4) Schedule and curriculum.

(a) Schedule refers to the number of class periods per day and week and is usually developed along with the curriculum. The number of class periods per day, class student sizes, the number and length of class periods per week and the number of students enrolled affect the number and size of teaching and other spaces within a school facility.

(b) Curriculum refers to all the subjects or class courses to be taught at a school. The major portion of curriculum is dictated by the courses that are required for a school to be accredited and are called required courses. Additional courses offered are referred to as electives or elective courses.

(5) Utilization of space and efficiency of utilization.

(a) Utilization of space refers to a space being occupied or utilized versus it being vacant. Often a space may be utilized but perhaps not efficiently.

(b) Efficiency of utilization refers to efficient use of space. To achieve desirable efficiency of utilization, a classroom must function at near full capacity for most of the class day. A general rule is for junior and senior high schools to utilize classroom space 75-85 percent of the time. For elementary schools, 90-95 percent is sometimes possible.

(6) Accreditation standards. Most states have strict accreditation requirements. Bureau schools should meet or surpass them. Class size and course offerings are factors when determining the amount and kind of space needed to meet accreditation requirements.

(7) Flexibility of space. An important factor to consider in space allocation is its adaptability to a variety of uses as education programs and teaching techniques change. Multi-use space should be considered, as well as space that can be divided into different configurations, if the need arises. For this reason irregular classroom shapes and sizes should be avoided.

(8) Combination of grades offered. The combination of grades offered at a Bureau school must be considered in determining the amount and kinds of spaces needed. Bureau schools may include elementary and junior high school grades, junior high school and high school grades, or elementary, junior high school, and high school grades.

(9) Climate and length of school year. This factor has a great deal of influence not only on operation and maintenance expense but also on certain building and site features. The length of the school year and climate determine whether the academic and vocational areas of the school need to be air-conditioned. Administrative areas are usually air-conditioned as the offices are used 12 months a year.

(10) Operation and maintenance. A major consideration is the cost of operation and maintenance of the school facility. The facility must be energy efficient and should be designed so that utilities could be shut off to a "wing" of a large building when not being used. Building design and construction must be conducive to efficient operation and maintenance to minimize costs.

(11) Isolation. A number of Bureau schools are located in isolated areas, making it necessary to provide support facilities not commonly found in public schools. In such instances Bureau schools may be self-sufficient because no central service facility is available. Complete food service, library, athletic, administrative, facilities management space, and dormitories may be required for these schools.

1.3 Authority. The authority for issuing this supplement is contained in 25 U.S.C. 2 and 9; and 25 U.S.C. 13 and 295.

2. Elementary Schools

2.1 Elementary Schools. Elementary schools are considered day or boarding schools that have grades Kindergarten through 6 and may also include Early Childhood Programs.

2.2 Gross Square Footage.

A. The space allocations identified and defined in these guidelines comprise the total net square footage of the facility. Up to 42 per cent of the total net square footage may be added to provide for circulation and related non-specific program spaces such as, mechanical equipment rooms, utility chases, student and public rest rooms, janitor's closets, certain storage spaces, corridors, lobbies, vestibules, wall thicknesses, stairwells, ramps, elevator shafts, etc.

B. The total net square footage plus circulation and related non-specific program spaces, up to 42 per cent of the total net square footage, equals the total gross square footage for an education facility. The gross square footage per student figures indicated in section 2.2D represent the maximum. However, efficient space design and utilization may result in education facilities which have less gross square footage per student.

C. The gross square footage per student figures indicated in section 2.2D may not include special programs classroom square footage. Special program classroom space will vary from school to school depending on whether additional space is required for some or all of the special programs or whether regular classrooms or other areas in an education facility may be used through efficient scheduling. The gross square footage per student figures listed in section 2.2D do not necessarily reflect gross square footage at those schools where additional space is required as provided for in section 2.4 Special Program Classrooms.

D. Gross Square Footage Per Student for Elementary Schools.

School Design Capacity.	Gross Square Footage Per Student.
25	500
50	275
100	186
150	173
200	160
250	148
300	140
350	134
400	129
450	125
500	120
550	116
600	112
650	108
700	105
750	103
800	101
850	100
900	100
950	99
1000	99

2.3 Classrooms.

A. Space Allocation For Elementary School Classrooms.

Classroom Type or Grade	Standard Size in Square Feet	Maximum Number of Students	Square Feet per Student
Kindergarten	1,200	20	60
1	880	22	40
2	880	22	40
3	880	22	40
4	1,000	25	40
5	750	25	30
6	750	25	30
7	750	25	30
8	750	25	30
Computer Lab	1,320	24	55
Art Room ¹	1,100	25	50
Wood Shop ¹	792	16	12
Home Economics ¹	960	16	60
Science Lab ¹	960	24	55

B. Foreign language instruction will utilize standard size classrooms.

C. Multi-grade classroom space will be based on the standard size of the lower grade.

2.4 Special Program Classrooms. A determination will be made on a case-by-case basis to provide special program classrooms when there is a demonstrated need to accommodate Chapter I, Family and Child Education (FACE), or Exceptional Child programs.

¹ Only when grade 7 or grades 7 and 8 are included in an elementary school.

A. When the need is demonstrated, classrooms of standard sizes will be provided. Under the FACE program, the size of classrooms will be determined as follows:

(1) To accommodate 3 and 4 year old children, classrooms will be based on 60 sf per student for a maximum of 20 students.

(2) To accommodate adults under the program, classrooms will be based on 60 sf per student for a maximum of 15 students.

B. When the need is demonstrated, in addition to classrooms any or all of the following may be provided:

(1) A separate accessible rest room with toilet, sink and shower stall of approximately 75 SF.

(2) A kitchenette of approximately 80 SF.

(3) Additional storage for special education program activities of approximately 15 SF.

(4) Adjacent office space.

C. Bilingual Education Programs will utilize standard size classrooms.

2.5 Administration.

A. The space allocation for administration includes space for the principal's office, other offices, vault, school supplies, bank, health unit, teachers' lounge and conference room.

B. Space Allocation for Administration.

Student Design Capacity	Square Footage
25 to 100	832
101 to 200	1,144
201 to 400	2,132
401 to 600	2,496
601 or more	2,652

2.6 Music Room. A music room, for music appreciation, choral, and band will be provided in schools with design capacity of more than 200 students. Space allocation is 40 SF per student for a maximum of 1800, minimum 1280 SF. In addition 160 SF should be provided for storage including instruments and music.

2.7 Media Center (Library). A media center or library will be provided as follows based on the design capacity of the elementary school.

A. For schools with a design capacity of 25 to 100 students a maximum total of 950 SF will be provided:

- (1) Space for reading, browsing, stacks, part-time librarian, and professional rack are allocated 750 SF.
- (2) Space for audio visual is not to exceed 200 SF.

B. For schools with a design capacity of 101 to 200 students a maximum total of 1,100 SF will be provided:

- (1) Space for reading, browsing, stacks, part-time librarian, professional racks, periodical racks is allocated 750 SF.
- (2) Space for audio visual is not to exceed 350 SF.

C. For schools with a design capacity of 201 to 400 students the following will be provided:

- (1) Space for reading, browsing, stacks, professional racks, periodical racks is allocated 750 SF plus 30 SF per student of 15% of design capacity over 201.
- (2) Space for audio visual is not to exceed 400 SF.
- (3) An office for a full-time librarian is allocated 120 SF.
- (4) A project room is allocated 880 SF.

D. For schools with a design capacity of more than 400 students the following will be provided:

- (1) Space for reading, browsing, stacks, professional racks, periodical racks is allocations 750 SF plus 30 SF per student of 15% of enrollment over 201.
- (2) Space for audio visual is not to exceed 400 SF.
- (3) An office for a full-time librarian is allocated 120 SF.
- (4) A project room is allocated 880 SF.
- (5) A conference room is allocated 160 SF.

2.8 Multi-purpose Room.

A. A multi-purpose room will be provided in elementary schools. The allocation for an elementary multi-purpose room is 4104 SF (54' x 76'). An elementary school which includes grade 7, or grades 7/8 may elect to have a gymnasium (See section 3.8 for guidelines.) instead of a multi-purpose room, but not both.

B. Bleacher seating. No bleacher seating will be provided in thrmulti-purpose room.

C. Shower/dressing area. When necessary for health and hygiene, a shower/ dressing area will be provided adjacent to the multi-purpose room as follows:

(1) Two (2) shower/dressing areas, each approximately 300 SF, one for males, one for females. Number of shower heads to be determined by Uniform Building Code.

(2) An area of approximately 150 SF may be provided for washer(s)/dryer(s) and linen storage.

D. Portable Platform/Stage. For elementary schools, only a portable platform/stage will be provided.

E. Storage. As required, storage will be provided for the following:

- (1) Portable platform/stage.
- (2) Athletic or physical education equipment.
- (3) Chair and tables.
- (4) Scenery and prop storage.

2.9 Rest Rooms. Rest rooms to serve the total facility will be provided based on design capacity and type of occupancy per the Uniform Building Code.

2.10 Kitchen and Dining Room.

A. In elementary schools with a design capacity of 25 to 200 students, the dining area will be in the multi-purpose room. In an elementary school with a design capacity of 25 to 200 that includes grade 7 or grades 7/8 and elects to have a gymnasium instead of a multi-purpose room, the dining area will be in the gymnasium.

B. A separate dining room area will be provided for elementary schools of more than 200 students.

(1) For schools with more than 300 students, dining room seating will be provided for 1/3 the design capacity of the school.

(2) For schools with 300 or less students, dining room seating will be provided for 1/2 the design capacity of the school.

(3) The space allowance is 14 SF per seat/student which includes seating, table and circulation space.

C. The space allocation for a kitchen area includes space for food preparation, serving line(s), walk-in and reach-in refrigerator, walk-in and reach-in freezer, dry storage, dish washing, can washing, office, employees' room and rest rooms, receiving dock and waste holding area.

D. Space Allocation for Kitchen Area.

Meals Served Per Day	Square Footage
100 or less	856
250	1,261
500	1,518
750	1,938
1,000	2,208
1,250	2,566
1,500	2,880
1,750	3,360
2,000 or more	3,840

2.11 Auditoriums. Auditoriums will not be provided for elementary schools including elementary schools which include grade 7 or grades 7 and 8.

2.12 Swimming Pools. Swimming pools will not be provided in conjunction with education facilities construction or facilities improvement and repair projects.

2.13 Play Area. A paved area of 60' x 100' adjacent to the elementary school should be provided as a ball court or multi-purpose play area. Other areas devoted to active play, which can provide such items as swings, slides or other play equipment should be provided based on the design capacity of the school.

3. Middle/Junior High Schools

3.1 Middle/Junior High Schools. Middle/junior high schools are considered day or boarding schools that have grades 6/7/8, 7/8 or 7/8/9.

3.2 Gross Square Footage.

A. The space allocations identified and defined in these guidelines comprise the total net square footage of the facility. Up to 42 per cent of the total net square footage may be added to provide for circulation and related non-specific program spaces such as, mechanical equipment rooms, utility chases, student and public rest rooms, janitor's closets, certain storage spaces, corridors, lobbies, vestibules, wall thicknesses, stairwells, ramps, elevator shafts, etc.

B. The total net square footage plus circulation and related non-specific program spaces, up to 42 per cent of the total net square footage, equals the total gross square footage for an education facility. The gross square footage per student figures indicated in section 3.2D represent the maximum allowable. However, efficient space design and utilization may result in education facilities which have less gross square footage per student.

C. The gross square footage per student figures indicated in section 3.2D may not include special programs classroom square footage. Special program classroom space will vary from school to school depending on whether additional space is required for some or all of the special programs or whether regular classrooms or other areas in an education facility may be used through efficient scheduling. The gross square footage per student figures listed in section 3.2D do not necessarily reflect gross square footage at those schools where additional space is required as provided for in section 3.4 Special Program Classrooms.

D. Gross Square Footage Per Student for Middle/Junior High Schools.

School Design Capacity.	Gross square footage per student.
50	466
100	248
150	216
200	207
250	198
300	190
350	181
400	172
450	163
500	155
550	151
600	148
650	145
700	142
750	139
800	136
850	134
900	132
950	130
1000	129

3.3 Classrooms.

A. Space Allocation for Middle/Junior High School Classrooms.

Classroom Type or Grade	Standard Size in Square Feet	Maximum Number of Students	Square Feet per Student
6	750	25	30
7	750	25	30
8	750	25	30
9	750	25	30
Computer Lab	1,320	24	55
Wood Shop	792	16	112
Home Economics	960	16	60
Science Lab	960	24	55
Art Room	1,100	25	50

B. Foreign language instruction will utilize standard size classrooms.

C. Multi-grade classroom space will be on the standard size of the lower grade.

3.4 **Special Program Classrooms.** A determination will be made on a case-by-case basis to provide special program classrooms when there is a demonstrated need to accommodate Chapter I and Exceptional Child programs.

A. When the need is demonstrated, classrooms of standard sizes will be provided with additional square footage to accommodate any or all of the following:

- (1) A separate accessible rest room with toilet, sink and shower stall of approximately 75 SF.
- (2) A kitchenette of approximately 80 SF.
- (3) Additional storage for special education program activities of approximately 15 SF.
- (4) Adjacent office space.

B. Bilingual Education Programs will utilize standard classrooms.

3.5 Administration.

A. The allocation for administration includes space for the principal's office, other offices, vault, school supplies, bank, health unit, teachers' lounge and conference room.

B. Space Allocation for Administration.

Student Design Capacity	Square Footage
25 to 100	832
101 to 200	1,144
201 to 400	2,132
401 to 600	2,496
601 or more	2,652

3.6 **Music Room.** A music room, for music appreciation, choral, and band will be provided in schools with design capacity of more than 200 student. Space allocation is 40 SF per student for a maximum of 1800 SF, minimum 1280 SF. In addition 160 SF should be provided for storage including instruments and music.

3.7 **Media Center (Library).** A media center or library will be provided as follows based on the design capacity of the middle/junior high school.

A. For schools with a design capacity of 25 to 100 students a maximum total of 950 SF will be provided:

(1) Space for reading, browsing, stacks, part-time librarian, and professional rack are allocated 750 SF.

(2) Space for audio visual is not to exceed 200 SF.

B. For schools with a design capacity of 101 to 200 students a maximum total of 1,100 SF will be provided.

(1) Space for reading, browsing, stacks, part-time librarian, professional racks, periodical racks is allocated 750 SF.

(2) Space for audio visual is not to exceed 350 SF.

C. For schools with a design capacity of 201 to 400 students the following will be provided:

(1) Space for reading, browsing, stacks, professional racks, periodical racks is allocated 750 SF plus 30 SF per student of 15% of design capacity over 201.

- (2) Space for audio visual is not to exceed 400 SF.
- (3) An office for a full-time librarian is allocated 120 SF.
- (4) A project room is allocated 880 SF.

D. For schools with a design capacity of more than 400 students the following will be provided:

- (1) Space for reading, browsing, stacks, professional racks, periodical racks is allocations 750 SF plus 30 SF per student of 15% of enrollment over 201.
- (2) Space for audio visual is not to exceed 400 SF.
- (3) An office for a full-time librarian is allocated 120 SF.
- (4) A project room is allocated 880 SF.
- (5) A conference room is allocated 160 SF.

3.8 Gymnasium. A gymnasium will be provided in middle/junior high schools. If a gymnasium is provided, a multi-purpose room will not be provided.

A. **Basketball Court.** A 42' x 74' standard basketball court will be provide with 6 feet set-backs on the sides and 10 feet set-backs on the ends. Total square footage is 5,076 (54' x 94'). A larger size standard basketball court will not be provided even if there is 9th grade in the middle/junior high school.

B. **Bleacher Seating.** Bleacher seating will be provided for 200% of design capacity of school at three (3) SF per student.

C. **Shower/Dressing Area.** Two (2) shower/dressing areas, each approximately 300 SF, one for males and one for females will be provided. Number of shower heads to be determined by Uniform Building Code.

D. **Locker Rooms/Rest Rooms.**

- (1) Two (2) locker rooms, each approximately 500 SF, one for males, one for females.
- (2) One small storage locker per student based on design capacity.
- (3) Number of dressing lockers to be determined by the maximum number of students in a physical education class.
- (4) For schools with a design capacity of more than 400, an additional thirty (30) dressing lockers may be provided for visiting teams. Allow appropriate 100 SF for additional dressing lockers.
- (5) Provide minimum required toilets with privacy stalls and sinks per Uniform Building Code in female and male locker rooms. In addition provide minimum required urinals per Uniform Building Code in male locker room.

E. Washer(s)/Dryer(s) and Linen Storage. An area of approximately 150 SF may be provided for washer(s)/dryer(s) and linen storage.

F. Portable Platform/Stage. For middle/junior high schools, only a portable platform/stage will be provided.

G. Storage. As required storage will be provided for the following:

- (1) Portable platform/stage.
- (2) Athletic or physical education equipment.
- (3) Team equipment and uniform storage.
- (4) Scenery and prop storage
- (5) Chair storage.

H. Concession Area. In schools with a design capacity of more than 200 students, 120 SF may be provided for concessions.

I. Physical Education Staff Offices. Two (2) 120 SF each of office space plus 75 SF for a toilet, shower stall and sink for each office.

3.9 Rest Rooms. Rest rooms to serve the total facility will be provided based on design capacity and type of occupancy per the Uniform Building Code.

3.10 Kitchen and Dining Room.

A. In middle/junior high schools with a design capacity of 25 to 200 students, the dining area will be in the gymnasium.

B. A separate dining room area will be provided for middle/junior high schools with a design capacity of more than 200 students.

(1) For schools with more than 300 students, dining room seating will be provided for 1/3 the design capacity of the school.

(2) For schools with 300 or less students, dining room seating will be provided for 1/2 the design capacity of the school.

(3) The space allowance is 14 SF per seat/student which includes seating, table and circulation space.

C. The space allocation for a kitchen area includes space for food preparation, serving line, walk-in and reach-in refrigerator, walk-in and reach-in freezer, dry storage, dish washing, office, employees' room and toilet, receiving dock and waste holding area.

D. Space Allocation for Kitchen Area.

Meals Served Per Day	Square Footage
100 or less	856
250	1,261
500	1,518
750	1,938
1,000	2,208
1,250	2,566
1,500	2,880
1,750	3,360
2,000 or more	3,840

3.11 Auditoriums. Auditoriums will not be provided for middle/junior high schools.

3.12 Swimming Pools. Swimming pools will not be provided in conjunction with education facilities construction or facilities improvement and repair projects.

3.13 Play Fields.

A. A paved area of 80' x 120' adjacent to the school should be provided as a ball court or multi-purpose play area. Additional playing field may also be provided.

B. For a middle/junior high school with a design capacity of more than 400 students a football field surrounded by an oval track will be provided. Additional playing fields and ancillary facilities may be provided on a limited basis.

4. High Schools

4.1 High Schools. High schools are day or boarding schools that have grades 9/10/11/12 or 10/11/12.

4.2 Gross Square Footage.

A. The space allocations identified and defined in these guidelines comprise the total net square footage of the facility. Up to 42 per cent of the total net square footage may be added to provide for circulation and related non-specific program spaces such as, mechanical equipment rooms, utility chases, student and public rest rooms, janitor's closets, certain storage spaces, corridors, lobbies, vestibules, wall thicknesses, stairwells, ramps, elevator shafts, etc.

B. The total net square footage plus circulation and related non-specific program spaces, up to 42 per cent of the total net square footage, equals the total gross square footage for an education facility. The gross square footage per student figures indicated in section 4.2D represent the maximum allowable. However, efficient space design and utilization may result in education facilities which have less gross square footage per student.

C. The gross square footage per student figures indicated in 4.2D may not include special programs classroom square footage. Special program classroom space will vary from school to school depending on whether additional space is required for some or all of the special programs or whether regular classrooms or other areas in an education facility may be used through efficient scheduling. The gross square footage per student figures listed in section 4.2D do not necessarily reflect gross square footage at those schools where additional space is required as provided for in section 4.4 Special Program Classrooms.

D. Gross Square Footage Per Student for High Schools.

School Design Capacity.	Gross square footage per student.
50	550
100	305
150	275
200	260
250	236
300	218
350	208
400	201
450	195
500	189
550	183
600	178
650	175
700	171
750	168
800	164
850	162
900	160
950	158
1000	156

4.3 Classrooms.

A. Space Allocation For High School Classrooms.

Classroom Type or Grade	Standard Size in Square Feet	Maximum Number of Students	Square Feet per Student
9	750	25	30
10	750	25	30
11	750	25	30
12	750	25	30
Computer Lab	1,320	24	55
Home Economics	960	16	60
Indust. Arts Shop	2,240	16	140
Electrical Shop ²	1,680	16	105
Metal Shop ²	1,920	16	120
Wood Shop ²	1,920	16	120
Auto Shop ²	2,400	16	150
Cosmetology Lab ²	1,680	16	105
Business/Typing	960	24	40
Science Lab	1,320	24	55
Agri./Econ. Devel.	750	25	30
Art Room	1,500	25	60
Drafting ²	320	24	55

B. Foreign language instruction will utilize standard size classrooms.

4.4 Special Program Classrooms. A determination will be made on a case-by-case basis to provide special program classrooms when there is a demonstrated need to accomodate Chapter I and Exceptional Child programs.

² Only in schools with a design capacity of more than 400.

A. When the need is demonstrated, classrooms of standard sizes will be provided with additional square footage to accomodate any or all of the following:

- (1) A separate accessible rest room with toilet, sink and shower stall of approximately 75 SF.
- (2) A kitchenette of approximately 80 SF.
- (3) Additional storage for special education program activities of approximately 15 SF.
- (4) Adjacent office space.

B. Bilingual Education Programs will utilize standard size classrooms.

4.5 Administration.

A. The space allocation for administration includes space for the principal's office, other offices, vault, school supplies, bank, health unit, teachers' lounge and conference room.

B. Space Allocation for Administration.

Student Design Capacity	Square Footage
25 to 100	832
101 to 200	1,144
201 to 400	2,132
401 to 600	2,496
601 or more	2,652

4.6 Music Room. A music room, for music appreciation, choral, and band will be provided in schools with design capacity of more than 200 student. Space allocation is 40 SF per student for a maximum of 1800 SF, minimum 1280 SF. In addition 160 SF should be provided for storage including instruments and music.

4.7 Media Center (Library). A media center or library will be provided as follows based on the design capacity of the high school.

A. For schools with a design capacity of 50 to 100 students a maximum total of 1080 SF will be provided:

- (1) Space for reading, browsing, stacks, part-time librarian, and professional rack are allocated 880 SF.

(2) Space for audio visual is not to exceed 200 SF.

B. For schools with a design capacity of 101 to 200 students a maximum total of 1,230 SF will be provided:

(1) Space for reading, browsing, stacks, part-time librarian, professional racks, periodical racks is allocated 880 SF.

(2) Space for audio visual is not to exceed 350 SF.

C. For schools with a design capacity of 201 to 400 students the following will be provided:

(1) Space for reading, browsing, stacks, professional racks, periodical racks is allocated 880 SF plus 30 SF per student of 15% of design capacity over 201.

(2) Space for audio visual is not to exceed 400 SF.

(3) An office for a full-time librarian is allocated 120 SF.

(4) A project room is allocated 880 SF.

D. For schools with a design capacity of more than 400 students the following will be provided:

(1) Space for reading, browsing, stacks, professional racks, periodical racks is allocated 880 SF plus 30 SF per student of 15% of enrollment over 201.

(2) Space for audio visual is allocated 400 to a maximum of 640 SF.

(3) An office for a full-time librarian is allocated 120 SF.

(4) A project room is allocated 880 SF.

(5) A conference room is allocated 160 SF.

4.8 Gymnasium. A gymnasium will be provided in high schools. A multi-purpose room will not be provided in addition to the gymnasium.

A. **Basketball Court.** A 50' x 84' American standard basketball court will be provided with 6 feet set-backs on the sides and 10 feet set-backs on the ends. Total square footage is 6,448 (62' x 104').

B. **Bleacher Seating.** Bleacher seating will be provided for 200% of design capacity of school at three (3) SF per student.

C. **Shower/Dressing Area.** Two (2) shower/dressing areas, each approximately 300 SF, one for males and one for females will be provided. Number of shower heads to be determined by Uniform Building Code.

D. Locker Rooms/Rest Rooms.

(1) Two (2) locker rooms, each approximately 500 SF, one for males, one for females.

(2) One small storage locker per student based on design capacity.

(3) Number of dressing lockers to be determined by the maximum number of students in a physical education class.

(4) For schools with a design capacity of more than 400, an additional thirty (30) dressing lockers may be provided for visiting teams. Allow appropriate 100 SF for additional dressing lockers.

(5) Provide minimum required toilets with privacy stalls and sinks per Uniform Building Code in female and male locker rooms. In addition provide minimum required urinals per Uniform Building Code in male locker room.

E. Washer(s)/Dryer(s) and Linen Storage. An area of 150 SF will be provided for washer(s)/dryer(s) and linen storage.

F. Platform/Stage.

(1) For high schools with a design capacity of 100 to 200 students a portable platform will be provided.

(2) For high schools with a design capacity of more than 200, a fixed stage will be provided.

G. Storage. As required storage will be provided for the following:

(1) Portable platform/stage.

(2) Athletic or physical education equipment.

(3) Team equipment and uniform storage.

(4) Scenery and prop storage

(5) Chair storage.

H. Auxiliary Physical Education Room. In schools with a design capacity of more than 500, an auxiliary gym of not more than 1,000 SF will be provided which may include wrestling room, weight room, gymnastics, etc.

I. Concession Area. In schools with a design capacity of more than 200 students, 120 SF may be provided for concessions.

J. Physical Education Staff Offices. Two (2) 120 SF each of office space plus 75 SF for a toilet, shower stall and sink for each office.

4.9 Rest Rooms. Rest rooms to serve the total facility will be provided based on the design capacity and type of occupancy per Uniform Building Code.

4.10 Kitchen and Dining Room.

A. In high schools with a design capacity of 50 to 200 students, the dining area will be in the gymnasium.

B. A separate dining room area will be provided for high schools with a design capacity of more than 200 students.

(1) For schools with more than 300 students, dining room seating will be provided for 1/3 the design capacity of the school.

(2) For schools with 300 or less students, dining room seating will be provided for 1/2 the design capacity of the school.

(3) The space allowance is 14 SF per seat/student which includes seating, table and circulation space.

C. The space allocation for a kitchen area includes space for food preparation, serving line, walk-in and reach-in refrigerator, walk-in and reach-in freezer, dry storage, dish washing, office, employees' room and toilet, receiving dock and waste holding area.

D. Space Allocation for Kitchen Area.

Meals Served Per Day	Square Footage
100 or less	856
250	1,261
500	1,518
750	1,938
1,000	2,208
1,250	2,566
1,500	2,880
1,750	3,360
2,000 or more	3,840

4.11 Auditoriums. Only high schools with a design capacity of 750 students or more will be provided an auditorium. A maximum of 7 SF total per student, including seating, rest rooms, lobby, stage, storage and circulation of total design capacity will be provided.

4.12 Swimming Pools. Swimming pools will not be provided in conjunction with education facilities construction or facilities improvement and repair projects.

4.13 Football Field and Track.

A. For high schools with a design capacity of less than 100 students, a paved area of 80' x 120' adjacent to the school should be provided as a ball court or multi-purpose area. Additional playing field should also be provided.

B. For high schools with a design capacity of more than 100 students, a football field surrounded by an oval track will be provided. Additional playing fields and ancillary facilities may be provided on a limited basis.

5. Dormitories - Grades 1 through 8

5.1 Residential Area. Space in dormitories will be allocated as shown:

A. Sleeping Rooms.

(1) 40 to 60 SF per student exclusive of furnishings. Maximum of 4 students per room.

(2) Approximately a total of 266 SF (14' x 19') per room to include two (2) double tier bunk beds, four (4) dresser/wardrobes, and two (2) desks.

B. Rest Rooms.

(1) One for each 2 sleeping rooms for approximately a total of 105 SF to include one shower stall, one toilet, and two (2) sinks.

(2) Communal type facilities may be substituted when the total space will equal to or be less than the total space that would be provided under number 1, above.

C. Isolation Health Care Sleeping Room. Provide two rooms one for males and one for females. Each room to contain 2 beds and bathroom facilities including toilet, tub/shower and sink. Square footage for each should be approximately 225 SF total.

D. Administration. Provide offices, each approximately 120 SF, as follows:

(1) One (1) office for one (1) counselor up to 150 students.

(2) Two (2) offices for two (2) counselors for 150 to 300 students.

(3) One (1) additional office for each additional 150 students.

E. Dorm Secretary Office. For dormitories with at least 150 students or more, provide one (1) office of approximately 120 SF and fire rated record storage space of approximately 64 SF.

F. Intensive Residential Guidance Counselor Offices. Where required, provide two (2) offices of approximately 120 SF each.

G. Home Living Specialist Office. Provide one office of approximately 120 SF.

H. Quiet Rooms. Where required, provide up to two (2) rooms of approximately 120 SF each.

I. Conference Rooms. In dormitories with more than 150 students provide a conference room of approximately 160 SF.

5.2 Support Space.

A. Living Room. Eight (8) SF per student.

B. Family Room. Fourteen (14) SF per student. A minimum of 1200 SF.

C. Study Rooms. Provide space for 1/3 of design capacity at 14 SF per student. Minimum space provided is 250 SF. Space may be allocated in more than one room.

D. Storage. Provide storage space as follows:

(1) Linen. Two (2) SF per student.

(2) General. Six (6) SF per student.

(3) Individual storage. Five (5) SF per student.

E. Laundry and Ironing Rooms. Provide 30 SF per pair of washers and dryers, one set for each 20 students design capacity. A double laundry sink and ironing board should be provided for every 2 or 3 sets of washers and dryers.

5.3 Play Area. A paved play area of 60' x 100' should be provided as a ball court or multi-purpose play area. Other areas devoted to active play may also be provided, which can provide such items as swings, slides or other playground equipment based on the design capacity of the dormitory.

6. Dormitories – Grades 9 through 12

6.1 Residential Area. Space in dormitories will be allocated as shown:

A. Sleeping Rooms.

(1) 50 to 70 SF per student exclusive of furnishings. Maximum of 4 students per room.

(2) Approximately a total of 266 SF (14' x 19') plus per room to include two (2) double tier bunk beds, four (4) dresser/wardrobes, and four (4) desks.

B. Rest Rooms.

(1) One for each 2 sleeping rooms for approximately a total of 105 SF to include one shower stall, one toilet, and two (2) sinks.

(2) Communal type facilities may be substituted when the total space will equal to or be less than the total space that would be provided under number 1, above.

C. Isolation Health Care Sleeping Room. Provide two rooms one for males and one for females. Each room to contain 2 beds and bathroom facilities including toilet, tub/shower and sink. Each should be approximately 225 SF total.

D. Administration. Provide offices, each approximately 120 SF, as follows:

(1) One (1) office for one (1) counselor up to 100 students.

(2) Two (2) offices for two (2) counselors for 101 to 199 students.

(3) One (1) additional office for each additional 100 students.

E. Dorm Secretary Office. For dormitories with at least 150 students or more, provide one (1) office of approximately 120 SF and fire rated record storage space of approximately 64 SF.

F. Intensive Residential Guidance Counselor Offices. Where required, provide two (2) offices of approximately 120 SF each.

G. Home Living Specialist Office. Provide one office of approximately 120 SF.

H. Quiet Rooms. Where required, provide up to two (2) rooms of approximately 120 SF each.

I. Conference Rooms. In dormitories with more than 150 students provide a conference room of approximately 160 SF.

6.2 Support Space.

A. Living Room. Ten (10) SF per student.

B. Family Room. Eight (8) SF per student.

C. Study Rooms. Provide space for 1/3 of design capacity at 14 SF per student. Minimum space provided is 250 SF Space may be allocated in more than one room.

D. Storage. Provide storage space as follows:

(1) Linen. Two (2) SF per student.

(2) General. Six (6) SF per student.

(3) Individual storage. Five (5) SF per student.

E. Laundry and Ironing Rooms. Provide 30 SF for pair of washers and dryers, one set for each 20 students design capacity. A double laundry sink and ironing board should be provided for every 2 or 3 sets of washers and dryers.

6.3 Recreational Area. A paved recreational area of 60' x 100' should be provided as a ball court or multipurpose play area. Other outdoor areas may also be provided. Recreation equipment based on the design capacity of the dormitory should also be provided.

7. Quarters.

7.1 Quarters. Determining educational quarters' needs and developing the justification is the responsibility of the users through the Area Office in accordance with 400 DM, OMB Circular 18, 41 CFR 114-51, and 43 BIAM Supplement 2. The determination should be made prior to or during the early programming and planning stages in the education facilities construction project.

8. Site and Miscellaneous Facilities

8.1 Site. The size of an education facilities site should be based on existing and any anticipated increased enrollment. The following is the recommended minimum size sites:

Elementary Schools (Grades K - 6)	10 acres plus one acre for each 100 students.
Middle/Junior High Schools (Grades 7 - 9)	20 acres plus one acre for each 100 students.
High Schools (Grades 9 - 12)	30 acres plus one acre for each 100 students.

8.2 Bus Garages and/or Yards.

A. To protect vehicles from inclement conditions and for security purposes, bus garages and/or yards may be provided. The garage and/or roof shelter space will not exceed that needed to house the number and size of buses required for student transportation based on the design capacity of the education facility and bus routes.

B. Heated bus space for maintenances purposes will only be provided in areas subject to harsh winter weather and will be limited to one (1) stall for each six (6) vehicles or fraction thereof. Vehicles should be housed in unheated facilities to maximum extent possible with provision for engine heaters as required.

8.3 Facilities Maintenance Shops. Facilities maintenance shops may be provided to serve education facilities. Facilities needs will be determined on a case-by-case basis based on the facilities to be served, the equipment, the remoteness and the numbers of maintenance staff.

CONSULTATION ITEM # 3

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CONSULTATION ITEM/TOPIC:

Full Inclusion of Children with Disabilities in Regular Education

POTENTIAL ISSUE OR CHANGE:

Encourage adoption of policy by BIA funded schools that all students, including children with disabilities, will be educated in school settings which include rather than exclude them. School environments include all curricular, co-curricular, and extra-curricular programs and activities. Scope of policy affects all BIA funded schools, including contract and grant schools, based on the statutory requirements of "Least Restrictive Environment" and "Free and Appropriate Public Education".

REASON FOR PROPOSING ISSUE OR CHANGE:

To achieve requirements of "least restrictive environment" and "free and appropriate public education" based on statute. To prepare children with disabilities for full participation within their communities and society. To establish ISEP criteria for schools that adopt a "full inclusion" policy.

CURRENT OPTION(S) BEING CONSIDERED BY THE BUREAU:

Encourage policy adoption in support of full inclusion of children with disabilities in regular education settings. Adoption of guidelines which will serve as minimum requirements for ISEP count of children with disabilities in a "Full Inclusion" Model of Instruction.

BACKGROUND

Mission Statement

The mission of the Bureau of Indian Affairs, Office of Indian Education Programs, (25 CFR 32) is to provide quality education opportunities for American Indians and Alaska Natives from early childhood through life. These educational opportunities are provided in accordance with the Tribe's needs for cultural and economic well-being in keeping with the wide distinct cultural and governmental entities. The Bureau shall manifest consideration of the whole person, taking into account the spiritual, mental, physical, and cultural aspects of the person within family, Tribal, and Alaska Native village contexts.

Education of Children with Disabilities

The education of children with disabilities and their role in society has been challenged frequently. Enactment of The Education for all Handicapped Act, P.L. 94-142, in particular, opened the doors to schools and reaffirmed the right to a "free and appropriate public education" for children with disabilities. The right to an education and access to aspects of daily living, employment, transportation, leisure activities etc. are also supported through legislation like the Rehabilitation Act and the Americans with Disabilities Act.

Educational Reform

Varied initiatives have emerged on educational improvement including: integration and mainstreaming (Special Education); restructuring, and effective schools leadership. In addition, other issues under debate or discussion should be reviewed relative to their impact on the individual needs of students with disabilities such as higher standards in achievement, increased graduation requirements or longer school days. However, a view on educational improvement should be directed to all students rather than only to those in regular education. Thus, perspectives held by schools need restructuring relative to efforts and resources to improve education for all students including students with disabilities (McNulty, 1992).

The possibility for change prompts dialogue for redefinition of roles between regular and special education. Further, changes in instructional strategies can benefit disabled children as well as non-disabled children. These changes will likely bring about the recognition that "the responsibility and accountability for successful learning must rest with all the teaching staff, not one system or the other" (McNulty, 1992, p. 4).

Individuals with Disabilities in Native Communities

It is the belief and practice by many tribes that all children will be cared for and respected without regard to their individual characteristics. Thus, a child with a disability would be embraced and welcomed into a family and community like all other children.

Although Native communities have been influenced in various ways by the values of the majority of Anglo society, many of the values and beliefs about care and concern for family members by Native people persist. It is essential that these values and beliefs held by Native people be extended affirmatively and vigorously to tribal members who may have limitations in areas of mental development, physical challenges, or emotional disturbance.

The measure of whether or not Native people hold firm to beliefs about "care and concern" for each other will be based to a great extent on how well we treat our people with disabilities and how we treat our elderly people. We can reaffirm our beliefs or we can ignore the needs of all others and bypass them.

Research

In an extensive study conducted by the California Research Institute (1992), it was found that children with disabilities who attended mostly regular education classes performed best in school and social situations and were better able to live independently. The extent of participation in integrated settings (attending regular education classes) and activities has the greatest singular impact on students with disabilities and their positive performance in school and social situations. Other educational practices which contributed to the performance of children with disabilities included: acquisition of social and communication skills, display of more positive effect, increased achievement of IEP objectives, greater levels of independence, improved attitudes toward peers with severe disabilities, and more positive parental expectations for their child's future.

EXHIBIT 3-A

New Mexico State Department of Education Policy on Full Inclusion

CURRENT	PROPOSED
<p><i>There is no current policy on inclusion nor policy for determining ISEP funds for children with disabilities being served in an inclusion model of instruction.</i></p>	<p><u>The BIA Policy for Inclusion.</u> The Bureau of Indian Affairs believes that all students must be educated in school environments which include rather than exclude them. School must include all curricular, co-curricular, and extra-curricular programs and activities. Full inclusion means all children must be educated in supported, heterogeneous, age-appropriate, natural, child-focused classroom, and in school and community environments for the purpose of preparing them for full participation in a diverse and integrated society. The Bureau of Indian Affairs supports and encourages emerging local/state practices and innovative utilization of resources which address the full inclusion of all children in the local and community. <u>ISEP Count.</u> In schools and classrooms which are implementing a "full inclusion" model of instruction, the following documentation will be required to support ISEP counts of children with disabilities: (a) Students must meet all applicable criteria to be classified/identified as eligible for special education services. The identification process must be no different than for any other Special</p>

EXHIBIT 3-A (Cont'd)

	<p>Education student. (b) Individual Education Plan (IEP). The IEP should reflect the need for the educational services to be delivered using the "full inclusion" model. (c) Special Education Teacher's Roll or Attendance Book. The amount of time spent in a "full inclusion" program should be documented in the attendance book and match time specified in the IEP. (d) Instruction must be provided by a certified teacher. In addition, to the four items, examples of the students' classwork can be included or requested.</p>
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CONSULTATION ITEM # 4

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CONSULTATION ITEM/TOPIC:

**Americans with Disabilities Act (ADA),
P.L. 101-336**

POTENTIAL ISSUE OR CHANGE:

**Applicability of the Americans with
Disabilities Act to Indian Tribes**

**REASON FOR PROPOSING ISSUE
OR CHANGE:**

**Information about the Americans with
Disabilities Act will be presented to tribes
to develop and increase an awareness
about the rights of individuals with
disabilities and that individuals cannot be
discriminated against on the basis of
their disability.**

**CURRENT OPTION(S) BEING
CONSIDERED BY THE BUREAU:**

**To propose legislative changes to the
Congress regarding the applicability of
P.L. 101 - 336 to Indian Tribes**

BACKGROUND

The Americans with Disabilities Act (P.L. 101-336) was passed in 1990. The Act is described as a civil rights law for persons with disabilities and is meant to eliminate discrimination against persons with disabilities. The law will impact directly the opportunity for participation in society by persons with disabilities.

Title I of the Americans with Disabilities Act on employment expressly excludes tribes. The term "employer" is defined in Section 101 of the law to exclude an Indian Tribe.

Question: Does Indian country support possible amendments to P.L. 101-336 which would include Indian tribes as "employers" as defined in the law?

EXHIBIT 4-A

Section 101 of PL 101-336

CURRENT	PROPOSED
Section 101-	Section 101-
Employer-	Employer-
(A) In General	(A) In General
(B) Exceptions	(B) Exceptions-
(i) the United States, a corporation wholly owned by the government of the United States, or an Indian Tribe.	(i) the United States, a corporation wholly owned by the government of the United States.

CONSULTATION ITEM # 5

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CONSULTATION ITEM/TOPIC:

Reauthorization of U.S. Department of Education (ED) Elementary and Secondary Education Programs.

POTENTIAL ISSUE OR CHANGE:

By Notice issued in the Federal Register on February 4, 1992, ED proposes to (1) change the way ED funds are appropriated for elementary & secondary programs which the BIA, tribes and schools participate in by making them regular appropriations to the Interior Department; and, (2) Discontinue the Title V special Subpart 1 discretionary program for Indian controlled schools.

REASON FOR PROPOSING ISSUE OR CHANGE:

ED's Reasons are to (1) Simplify administration and speed up program allocations; and, (2) Eliminate overlapping funding by Subpart 1 (Indian Education Act) to Indian controlled schools for the same kinds of activities supported under Subpart 2 programs.

CURRENT OPTION(S) BEING CONSIDERED BY THE BUREAU:

To make Indian Country aware of the reauthorization of ESEA and other elementary & secondary programs and proposed changes by the Department of Education which will affect the appropriation of funds process for programs the BIA, tribes and Bureau funded schools currently participate in.

BACKGROUND

The Department of Education (ED) published a notice in the Federal Register on February 4, 1992 (Vol. 57, No. 23) outlining their programmatic, funding and other changes relative to the reauthorization of the elementary and secondary programs, including those programs in the Elementary and Secondary Education Act of 1965, as amended. Current authorization expires September 30, 1993.

Reauthorization Includes the Following:

ESEA of 1965; P.L. 81-874 Impact Aid Maintenance and Operations; P.L. 81-815 Impact Aid Construction; Section 372 of Adult Education Act; Hawkins-Stafford Elem. and Sec. School Improvement Amendments of 1988 (including the Indian Education Act of 1988); Education and Training for a Competitive America (Title VI of the Omnibus Trade and Competitiveness Act of 1988); Education for Economic Security Act; Title VII of the Stewart B. McKinney Homeless Assistance Act of 1991 (P.L. 102-62). There are over 50 education programs included in this reauthorization.

There are also three issues posed in the federal register notice of February 4, 1992 which will impact the BIA/Office of Indian Education Programs (OIEP), the schools and the tribes, in relation to elementary and secondary program funds currently received by the Department of the Interior. These three issues are summarized below.

1. Transfers to Bureau of Indian Affairs

Issue: The Department of Education is asking "Is it efficient and beneficial to the children in the BIA funded schools to have funds appropriated to the Department of Education and then transferred to the Department of the Interior (DOI), or would administration be simplified and program allocations speeded up if all these funds were simply added to the regular DOI appropriation?" (page 4322 of the notice)

This would include all programs due for reauthorization for which the OIEP receives funds, including Chapter 1, Drug Free Schools, Math and Science Education.

On page 4330 of this same notice, the Indian Education Act (Title V) Subpart 1 formula grant program is addressed. Below are the two issues posed in the notice that will impact the OIEP and the Bureau funded schools.

2. Funds for BIA Schools

Issue: The Department of Education is asking "Is it efficient for BIA schools to receive funds from the Department of Education, or should all funds for these schools be included in the direct appropriation to the DOI?"

This would effect the Subpart 1 formula grants that the Bureau operated schools may currently apply directly to the ED for.

3. BIA Contract Schools

Issue: The Department of Education is asking "Is there a need to continue the special Subpart 1 discretionary program for Indian controlled schools?"

According to the Department of Education's federal register notice, "BIA contract schools are eligible to receive Subpart 1 formula grants and to compete under every other Indian Education Act program, some of which have overlapping purposes. One of these competitive programs (funded from a set-aside of Subpart 1 funds) supports only Indian-controlled schools (the great majority of which are also BIA-supported) and funds the same kinds of activities as are supported under Subpart 2 programs."

QUESTIONS:

1. Transfers to Bureau of Indian Affairs - Based on the Department of Education's proposal, does Indian Country believe that the current process should remain the same whereby funds are appropriated to the Department of Education for such programs as Chapter 1, Drug-Free Schools, and Mathematics and Science Education and then transferred to the Department of the Interior - or - should all of these funds be simply added to the regular Department of the Interior appropriation?

2. Funds for BIA Schools - Should BIA schools continue to receive funds from the Department of Education, such as Indian Education Title V Subpart 1 formula grants - or - should all funds for these schools be included in the direct appropriation for the Department of the Interior?

3. BIA Contract Schools - Is there a need to continue the special Subpart 1 discretionary program for Indian-controlled schools?

EXHIBIT 5-A

Reauthorization of Elementary & Secondary Education Programs

CURRENT	PROPOSED
<p>1. Transfers to the Bureau of Indian Affairs:</p> <p><i>Funds for elementary & secondary programs that the DOI/BIA participates in are appropriated to the Department of Education and then transferred to the DOI. Includes Chapter 1, Drug Free Schools and Communities, Math and Science Education.</i></p>	<p>The Department of Education proposes to have funds for these programs added to the regular DOI appropriation.</p>
<p>2. Funds for BIA Schools:</p> <p><i>BIA schools are eligible to apply for and receive funds directly from the Department of Education; for example, Title V, Subpart 1 formula grants.</i></p>	<p>The Department of Education proposes that these funds be included in the direct appropriation to the DOI.</p>
<p>3. BIA Contract Schools:</p> <p><i>Bureau funded Indian controlled schools are eligible to receive funds from a special set-aside of Title V, Subpart 1 funds.</i></p>	<p>The Department of Education proposes to discontinue the Title V, Subpart discretionary program for Indian controlled schools.</p>

CONSULTATION ITEM # 6

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CONSULTATION ITEM/TOPIC:

School Boundaries

POTENTIAL ISSUE OR CHANGE:

To revise existing boundaries for all Bureau funded schools.

REASON FOR PROPOSING ISSUE OR CHANGE:

To update school boundary information for all Bureau funded schools.

CURRENT OPTION(S) BEING CONSIDERED BY THE BUREAU:

To utilize the procedures in Section 1125 of P.L. 95-561 to revise the attendance boundaries of all schools funded by the Bureau.

BACKGROUND

Currently, Section 1124 of P.L. 95-561, The Education Amendments of 1978, contain procedures to be used in establishing school boundaries for those Tribally and Bureau operated schools and dormitories funded by the Bureau of Indian Affairs. Since each Bureau funded school is funded each year based on the number and program type of children enrolled during the student count week, the Indian School Equalization Program formula process and the authorization statute prescribe specific steps to be followed in setting or changing such school attendance areas.

One intent of Section 1124 of P.L. 95-561 was to provide stability to the Bureau's overall administration of the ISEP funded school programs.

The current school boundaries were initially established in 1985 and several schools have since requested amended boundaries. As one school's boundary is changed, it may have an adverse affect on a neighboring school's student enrollment and financial status.

25 CFR §36.11(c) currently provides as follows:

"Geographic attendance boundaries. Each Agency Superintendent for Education shall establish and implement non-overlapping geographic attendance boundaries within that Agency for each school within the administrative jurisdiction of that Agency. The establishment of such geographic boundaries shall require coordination with contiguous Agencies within the Area and consultation with the Agency or other relevant school boards and/or tribes and shall be reviewed each year to appropriately adjust for geographic changes in enrollment, changes in school capacities, and improvement of day school opportunities for students. The Director shall establish and implement geographic attendance boundaries for each off-reservation boarding school under his/her administrative jurisdiction. The establishment of geographic boundaries shall require coordination with other Area Education Programs Administrators similarly affected by the requirement of this part, the affected tribes and the Director."

Question: Does Indian Country support a system-wide review of geographic attendance boundaries of all schools funded by the Bureau.

CONSULTATION ITEM # 7

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CONSULTATION ITEM/TOPIC:

Off-Reservation Boarding Schools

POTENTIAL ISSUE OR CHANGE:

To provide increased programmatic funding

REASON FOR PROPOSING ISSUE OR CHANGE:

To focus on at risk students served by off-reservation boarding schools.

CURRENT OPTION(S) BEING CONSIDERED BY THE BUREAU:

To modify the ISEF to ensure a more realistic level of funds by which ORBS can adequately meet students' special needs.

BACKGROUND

The Bureau of Indian Affairs funds 56 boarding school programs which serve approximately 19,000 students. Six (6) of these schools are located off the reservation and enroll some 2100 students. Typically, the 6 Off-Reservation Boarding Schools (ORBS) serve students in grades 9-12; however, one is an elementary ORBS and serves children as young as 6 years of age.

While most of the 56 boarding schools are located in close proximity to the child's home, the ORBS most usually are not near reservation areas nor are they close to students' homes. Sherman Institute in Riverside, CA and Chemawa Indian School in Salem, Oregon, for example, are not situated near the reservation areas of their enrolled students; and, therefore, students' homes are far from the ORBS in which they are enrolled.

Often, students enrolled in the ORBS are referrals from Social Services or the Judicial System for services in Bureau-funded boarding schools. Many of these students, most in the upper grades, are considered "at risk."

The Bureau proposes to provide intervention, treatment and intensive counseling to these students to provide them the opportunity to become responsible, productive adults who contribute to their tribes and reservations.

In order to provide funds for these services, the Bureau proposes to seek legislation to provide additional funds other than ISEP for these schools. The following options are presented for consideration:

1. Increase the ISEP weight for ORBS students to 3.0.
2. Separate ORBS students from ISEP and use a different formula to fund those schools with a base amount to be determined plus the WSU amount.
3. Declare all ORBS students as automatically eligible for the IRG weight.
4. In the budget justification, use ORBS as a Indian School Program Adjustment activity and fund them based on needs, prorated over a period of time to allow for a three-year phase-in period.

APPENDIX

Status Report of July 1992 Consultation Items



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Washington, D.C. 20240

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IN REPLY REFER TO

Code 530

16 SEP 1992

Memorandum:

To: All Education Line Officers
All Division Chiefs, Office of Indian Education
Programs
Regional Tribal Consultation Teams

From: Director, Office of Indian Education Programs *John W. Tippin*

Subject: Status Report on July, 1992 Tribal Consultation Item
Number 1 - FY 1995 Education Budget Tribal Priorities

The purpose of this report is to provide feedback to all interested parties concerning what action(s) this office has taken on this particular consultation item since the consultation meetings in July. Each education line officer is to provide a copy of this update to each Tribe and school within his/her jurisdiction.

Consultation Item #1 - FY 1995 Education Budget Tribal Priorities

Purpose of Item #1 - The Bureau has begun planning for the FY 1995 budget development process. As part of the planning process and before any specific dollar amounts are identified for FY 1995, the Office of Indian Education Programs has asked Indian country, through its Tribal consultation process, to identify its education budget priorities for any possible increases, identify any budget line items for possible reductions and identify any new Tribal education initiatives.

Comments Made During Consultation - More than 400 individual verbal and/or written comments were made on this item by Indian country during the eleven (11) regional consultation meetings.

Question #1

The first question asked regarding this item was "If the OIEP was provided with additional funding (in FY 1995), what education programs/line items should receive top priority?" Approximately 242 comments were made regarding priorities for possible increases in FY 1995. Grouping the comments into major program categories produced the following breakdown of the 242 comments:

<u>Program</u>	<u># Comments</u>
Johnson-O'Malley	58
ISEP	56
Higher Education Scholarships	39
Adult Education	15
Student Transportation	11
Substance Abuse Counselors	4
Early Childhood Education	4
Solo Parent	2
Other comments	<u>53</u>
Total	242

Of the 53 "Other comments", eighteen (18) stated that the Johnson-O'Malley program must stay off the Indian Priority System and that the JOM funds should continue to be distributed through the current student count formula system. Eleven (11) of the 53 "Other comments" identified Tribal education departments as a new initiative for FY 1995. The remaining 24 comments of the 53 "Other comments" identified a condition of a specific school/situation or did not specify a particular education program which should be increased.

One interpretation of the comments made in response to this question was that the individuals attending the July consultation meetings placed their highest priority on such programs as the JOM, higher education scholarships and Indian school equalization program line items in the Bureau's budget. It is also noted that JOM and ISEP were the highest ranking education programs during the FY 1994 Tribal Budget System national ranking process.

Question #2

The second question asked regarding this item was "If the OIEP was faced with a situation of reduced funding, what education programs/line items could be reduced?" Approximately 103 comments were made in response to this question. Grouping the comments into major program categories produced the following breakdown:

<u>Type of Comment</u>	<u># Comments</u>
There should be no decreases at all	38
There should be no decrease in ISEP	8
There should be no decrease in JOM	5
Area/Agencies could be reduced	6
Central Office could be reduced	4
JOM could be reduced	3
Solo Parent program could be reduced	2
Admin. Cost Grants could be reduced	1
Other comments	<u>36</u>
Total	103

A variety of comments made up the 36 "Other comments." Seven of the 36 comments focused on the needs of boarding schools and pointed out that residential weights in the current ISEP formula do not generate adequate support for dormitory operations. Four comments indicated the need for the Office of Management and Budget to listen more closely to Indian Tribes. The remaining 25 comments described a specific situation or did not identify a program which could be reduced.

One interpretation of the comments made on this question was that those individuals attending the July consultation meetings did not consistently recommend any education program for reductions in FY 1995.

Question #3

The third question asked regarding this item was "If the OIEP were to propose a new Tribal initiative (in FY 1995), what should the initiative be?" Approximately 91 comments were made concerning possible new Tribal education initiatives for FY 1995. Grouping the comments into major program categories produced the following breakdown:

<u>Type of Initiative</u>	<u># Comments</u>
Modifications to ISEP	17
Tribal Departments of Education	13
None - Focus on current programs	7
Change current priority system	7
Modifications to JOM	4
Modifications to Higher Education	4
Develop local partnerships	4
Role of OMB in budget process	4
Keep education funds off the IPS	6
Modifications to early childhood	4
Other comments	21
Total	91

Future Actions - As stated in the July Tribal consultation booklet, this item and questions were proposed to Indian country to gain information on how the FY 1995 budget process should be approached or viewed. The information provided by Indian country will be used by the Director, Office of Indian Education Programs in making recommendations to the Department for FY 1995. Also, this information will supplement the information generated through the FY 1995 Tribal Budget System.

Within the Office of Indian Education Programs, the funding for all education programs is important. However, as long as the current Federal budget process involves some type of priority setting procedure for its funded programs, the Bureau will continue its efforts to involve Indian country in establishing its priorities.

Based on the results of the Tribal consultation meetings on this particular item, I have concluded that the JOM and ISEP programs continue to be identified by Indian country as very high priority BIA funded programs. At least this was the case for those individuals attending the July consultation meetings. These two programs were also identified as the highest ranking education programs through the FY 1994 Tribal Budget System process.

I have also concluded that Indian country did not consistently identify any particular education program which could be reduced if the Department allowance for BIA education was reduced. In fact, the individuals attending the consultation meetings consistently stated that there should be no education decreases at all. Should the Bureau's education allowance be decreased by the Department for FY 1995, this office will have to identify any necessary program reductions. Finally, I concluded that Tribal Departments of Education and the overall level of ISEP funds available for distribution through the current ISEP formula continue to be ranked as very important to Indian country as Tribal initiatives.

This information is very helpful to the Office of Indian Education Programs and will be used as the FY 1995 budget process begins.

Supplemental Information - On August 24, 1992 the four regional Tribal consultation teams met with the Director, OIEP to brief him on the results of the July Tribal consultation meetings. The results of the eleven regional meetings were consolidated into four regional summary reports and such reports were the basis for the Director's briefing. Copies of the regional summary reports have been provided to all BIA education line officers for distribution to Indian country. The four Tribal representatives on the consultation teams made a panel presentation to the 28 BIA education line officers in Minneapolis, Mn. on August 24, 1992.

Additional Information - Any questions regarding this consultation item may be directed to the Branch of Planning, OIEP, Attn: Mr. Ken Whitehorn (Ph:202-208-3550).



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

Washington, D.C. 20240

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IN REPLY REFER TO:

07 OCT 1992

Indian Education
Code 522

MEMORANDUM

To: All Division Chiefs, Office of Indian Education Programs
All Education Line Officers

From: Director, Office of Indian Education Programs

Subject: Status report on the July, 1992 Tribal Consultation
Item # 2 Student Tuition - A Proposed Tuition Charge for
Students at Haskell Indian Junior College and
Southwestern Indian Polytechnic Institute.

The purpose of this report is to provide feedback to all interested parties concerning what action(s) this office has taken on this particular consultation item since the consultation meetings in July. Each Education Line Officer is to provide a copy of this update to each tribe and school within his/her jurisdiction.

Consultation Item # 2-Charging student tuition at Haskell and SIPI

Purpose of Item # 2 - To partially recover a decrease of \$1,139,000 expected in the FY 1993 funding level.

Comments Made During Consultation - There were 154 responses from 9 hearing locations and of these 11 were written responses. 97 respondents opposed the tuition charge. There were 24 comments made concerning the use of the Pell Grants, raising the fees, and the Trust Responsibility on the part of the Federal Government. There 8 comments suggesting the funding cuts for these two institutions should be restored. 3 commentators suggested the Central Office funding should be cut and the funds be given to the schools. There were 4 who agreed with the charging of tuition to the students.

Action to be taken - The conference report and the appropriation language stated that there would be no tuition charge at these two institutions, and Congressional action restored the funding reductions to these two programs. The OIEP will continue to seek other means of funding these two schools without reducing other vital programs for elementary and secondary students.



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Washington, D.C. 20240

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IN REPLY REFER TO.

Indian Education
Code 521

06 OCT 1992

MEMORANDUM

To: All Division Chiefs, Office of Indian Education Programs
All Education Line Officers

From: Director, Office of Indian Education Programs

Subject: Status Report on July, 1992 Tribal Consultation Item #4 -
Advocacy Activities for Public Schools

The purpose of this report is to provide feedback to all interested parties concerning what action(s) this office has taken on this particular consultation item since the consultation meetings in July. Each education line officer is to provide a copy of this update to each Tribe and school within his/her jurisdiction.

Consultation Item #4 - Advocacy Activities for Public Schools

Purpose of Item #4: During previous tribal consultation hearings and the White House Conference, many individuals stressed a need for focusing attention on the education of Indian children attending public schools across the country. Since a significant portion of Indian children attend public schools, it was pointed out that Tribes, the Federal Government, states and other organizations could do more in being advocates for these Indian children. Participants stated that if Indian students knew that the tribes, Federal Government, states or other organizations were their advocates, they would make better grades, stay in school until they graduate and, in general, realize that the community cares about their education progress. Participants in the consultation meetings further stated that any long range goals of the Tribes and the Bureau should include advocacy activities aimed towards all Indian children, regardless of where they attend school.

Comments Made During Consultation: A total of 208 comments were made during the 11 consultation meetings in July, 1992 on this consultation item. The Northwest consultation team reported 57 comments during the meetings in Anchorage, Ak, Reno, NV, and Seattle, WA. The Southwest team received another 45 comments

during its meetings in Albuquerque, NM, Gallup, NM, and Phoenix, Az. The Central team recorded 19 comments during its meetings in Oklahoma City, OK and Nashville, TN. Finally, the Northern team received 92 comments on this consultation item during the meetings in Greenbay, WI Aberdeen, SD and Billings, MT. An additional 15 comments were written in and reviewed by the appropriate teams.

Future Action: The comments received on this consultation item from Indian country will give the Bureau insight as to the needs being surfaced from Indian country as they are given the opportunity to express their recommendations through the consultation hearings.

The Bureau will set up meetings and strategies, and plan how it can be more of an advocate for the 90% Indian population who attend public schools.

John W. Tyceman



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Washington, D.C. 20240

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Indian Education
Code 522.

07 OCT 1992

MEMORANDUM

To: All Division Chiefs, Office of Indian Education Programs
All Education Line Officers

From: Director, Office of Indian Education Programs *John W. Lyman*

Subject: Status Report on the July, 1992 Tribal Consultation
Item # 5 - A Proposal for the Office of Indian Education
Programs to Assume The Adult Vocational Program from the
Director of Tribal Services.

The purpose of this report is to provide feedback to all interested parties concerning what action(s) this office has taken on this particular consultation item since the consultation meetings in July. Each education officer is to provide a copy of this update to each Tribe and school within his/her jurisdiction.

Consultation Item # 5-Assumption of The Adult Vocational Training by OIEP.

Purpose of Item # 5 - To coordinate all Adult Education and Training programs in one office.

Comments Made During Consultation - There were 89 responses from 9 hearing locations of these 8 were written the remainder were verbal responses from participants at the hearings. 44 responses favored the assumption of OIEP of this program. 24 responses ranged from increase of funding for this program to eligibility of students who would participate in this program. 10 respondents wanted an audit and investigation into the contract with the Ironworkers Union. 4 of the comments were the assumption of the program by the tribes through contracts. 4 comments stated that further consultation with the tribes was necessary. 3 comments were against the moving of the program to OIEP.

Action Taken - The Office of Indian Education Programs will recommend to the Assistant Secretary that the 44 favorable responses was sufficient to recommend this change.



IN REPLY REFER TO

United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Washington, D.C. 20240

TAKE
PRIDE IN
AMERICA

Code 530

14 SEP 1992

Memorandum

To: All Division Chiefs, Office of Indian Education Programs
All Education Line Officers

From: Director, Office of Indian Education Programs

Subject: Status Report on July, 1992 Tribal Consultation Item
Number 6 - Academic/Dormitory Standards: Philosophy
Requirements; and Time Requirements for Waivers and
Revisions (25 CFR 36)

The purpose of this report is to provide feedback to all interested parties concerning what action(s) this office has taken on this particular consultation item since the consultation meetings in July. Each education line officer is to provide a copy of this update to each Tribe and school within his/her jurisdiction.

Consultation Item #6 - Academic/Dormitory Standards

Purpose of Item #6: The Office of Indian Education Programs is considering revisions to selected sections of the Academic Standards regarding: (1) Standard I - Philosophy and goals in order to allow schools the flexibility to develop their own unique philosophy statements; and (2) Waivers and Revisions in order to establish compatible due dates for waivers and revisions with the annual standards compliance reports due to OIEP Central Office in November.

Comments Made During Consultation: More than 57 comments were made during the 11 consultation meetings in July, 1992 on this consultation item. The Northwest consultation team reported six comments during the meetings in Anchorage, AK, Reno, NV, and Seattle, WA. The Southwest team received another 23 comments during its meetings in Albuquerque, NM, Gallup, NM, and Phoenix, AZ. The Central team recorded 10 comments during its meetings in Oklahoma City, OK, and Nashville, TN. Finally, the Northern team received 13 comments on this consultation item during the meetings in Greenbay, WI, Aberdeen, SD, and Billings, MT.

Eighty-nine percent (51) of the comments fully supported the proposed revisions to the Academic Standards. Several of the comments underlined the need for funding to fully meet the academic requirements. The other 11 percent (6) of the comments requested clarification of the proposed changes, i.e., *What are the proposed time frames?*, or made general remarks related to the item, i.e., *We don't want to lose NCA accreditation. Requirement for school nurse is not meetable, etc.*

Future Actions: The comments received on this consultation item from Indian country on the proposed revisions to the Academic/Dormitory Standards has provided the Bureau with insight as to the impact these regulations may have at the local level. The comments obtained through the consultation process are being used in preparation of proposed rules at present.

Supplemental Information: On August 24, 1992, the four Tribal Consultation teams briefed the Director, OIEP on the results of the July meetings. The results of the 11 consultation meeting were tabulated and consolidated into four regional summary reports. These four Consultation Team Summary Reports were used in the briefing of the Director and have been provided to all Area and Agency education line offices for distribution to Indian country. The four Tribal representatives on the consultation teams made a panel presentation to the 28 BIA education line officers in Minneapolis, MN, on August 24, 1992.

Additional Information: Any questions regarding this particular consultation item may be directed to the Branch of Monitoring and Evaluation, OIEP, Dr. Sandra Fox, Branch Chief (Ph: 202-208-3550).

Opin W. Typpelmann III

LOCAL CONTACTS

Meeting information may be obtained from persons having responsibility for meetings in specified states as follows:

CALIFORNIA	<i>Fayetta Babby</i>	<i>916/978-4680</i>
NEW MEXICO	<i>Val Cordova</i>	<i>505/766-3034</i>
	<i>Larry Holman</i>	<i>505/786-6150</i>
MINNESOTA	<i>Betty Walker</i>	<i>612/373-1090</i>
WASHINGTON	<i>Van Peters</i>	<i>503/230-5682</i>
SOUTH DAKOTA	<i>Jim Davis</i>	<i>701/477-6471</i>
OKLAHOMA	<i>Jim Baker</i>	<i>405/945-6051</i>
ALASKA	<i>Robert Pringle</i>	<i>907/271-4115</i>
ARIZONA	<i>Beverly Mestes</i>	<i>602/562-3557</i>
MONTANA	<i>Larry Parker</i>	<i>406/657-6375</i>
TENNESSEE	<i>Lena Mills</i>	<i>703/235-3233</i>

TRIBAL CONSULTATION BOOKLET



*U. S.
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS
OFFICE OF INDIAN EDUCATION PROGRAMS*

JULY 1993

LEGISLATIVE AUTHORITY

Section 1130 of Public Law 95-561, as amended, states:

"It shall be the policy of the Secretary and the Bureau in carrying out the functions of the Bureau, to facilitate Indian control of Indian affairs in all matters relating to education . . . with active consultation with tribes . . . [by] a process involving the open discussion and joint deliberation of all options with respect to potential issues or changes between the Bureau and all interested parties. . . [and]

During such discussions and joint deliberations, interested parties (including, but not limited to, tribes and school officials) shall be given an opportunity to present issues including proposals regarding changes in current practices or programs which will be considered for future action by the Bureau."

IMPLEMENTATION PROCESS

In 1991, the Bureau of Indian Affairs formally initiated a process intended to fulfill the P. L. 95-561 consultation mandates; and, the Office of Indian Education Programs (OIEP), as a matter of policy, committed to regularly scheduled, twice-a-year consultation meetings across Indian Country. It is intended that the meetings afford Indian tribes, parents, schools and interested parties the opportunity to consider, discuss and propose options for the resolution of issues relating to education programs and to offer alternatives to changes which the Bureau may be considering.

The meetings are planned and conducted by Regional Consultation Teams, each comprised of Tribal Representatives, Area/Agency Education Line Officers and Central Office Education staff; and, are held in eleven (11) locations during January and again in July each year. The results of all consultation meetings are presented to the Director and staff, OIEP, for use in daily operations and future planning. The overall Tribal consultation effort is organized and maintained by the Branch of Planning, OIEP.

TRIBAL CONSULTATION

JULY 1993



PLANNING, OVERSIGHT AND EVALUATION

Branch of Planning

LOCAL CONTACT PERSONS

Consultation meeting information may be obtained from the local contacts listed on the inside back cover.

WRITTEN COMMENTS

Written Comments must be received by August 23, 1993 and, should be mailed or hand delivered to:

*Bureau of Indian Affairs
Office of Indian Education Programs
MS-3512 MIB
1849 C. Street, NW
Washington, D.C. 20240*

Attn: Dr. John Tippeconnic

FOR FURTHER INFORMATION CONTACT

*Dr. John Tippeconnic, Director,
Office of Indian Education Programs
202/208-6123*

*Dr. James Martin, Chief,
Planning, Oversight and Evaluation
202/208-3550*



IN REPLY REFER TO

United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

Washington, D.C. 20240

TAKE
PRIDE IN
AMERICA

April 15, 1993

Dear Tribal Leader/School Board Member/Others:

In keeping with the commitment of this Office to conduct twice-a-year consultation meetings with the tribes, we are pleased to advise that the final set of meetings for 1993 on education matters will be held in July. At the request of tribal participants at previous consultation meetings held in Alaska, the meeting in Alaska will be held in May rather than July due to seasonal factors.

DATES, SITES AND LOCAL CONTACTS:

The locations, dates and local contacts for the meetings are provided in the draft copy of the Federal Register Notice of the meetings included in this Booklet. Specific meeting locations can be obtained from the local individual contacts which are identified in the Notice for each site.

CONSULTATION PROCESS:

The meetings will use a discussion format and be conducted by regional consultation teams, comprised of Bureau and tribal representatives as has been done since 1992. Overall, the process is as follows:

1. A Consultation Steering Committee of regional team members will select consultation items; prepare materials and produce a Tribal Consultation Booklet.
2. A Notice announcing consultation meeting dates and locations will be published in the Federal Register.
3. The Tribal Consultation Booklet containing agenda items will be mailed to Tribes and School Boards.

4. Eleven consultation meetings will be conducted by the regional consultation teams, using a discussion format, on items included in the Booklet.
5. Regional teams conducting each meeting will encode, on-site, data from comments made during the meeting into a Tribal Consultation Data Base; and, generate a summary report of the day's consultation comments for distribution at the end of that day's meeting.

FORMAT FOR COMMENTS AND RESPONSES:

Since comments from several hundred respondents are anticipated, it will be helpful if all comments and suggestions, written and oral, provide the following information:

1. Consultation Item/Topic being addressed.
2. Name of the respondent; AND, Name & Address of the organization which respondent represents.

We encourage all tribes, Indian school boards and parents to attend the meetings and provide oral and/or written comments on each item/topic. If there are any questions please do not hesitate to call on the local contact identified for your respective area.

Sincerely,



Director, Office of Indian Education
Programs

[4310-02]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Tribal Consultation on Indian Education Topics

AGENCY: Bureau of Indian Affairs, Interior

ACTION: Notice of Tribal Consultation Meetings

SUMMARY: Notice is hereby given that the Bureau of Indian Affairs (BIA) will conduct consultation meetings to obtain oral and written comments concerning potential issues in Indian education programs. The potential issues which will be set forth in a tribal consultation booklet to be issued prior to the meetings are as follows:

1. Programs available for American Indian and Alaska Native students funded by the Bureau of Indian Affairs and other Federal Agencies, including school operations.
2. Tribal Consultation Dates
3. Inclusion of Indian School Equalization Program and Tribally Controlled Community College funds in Tribal Self-Governance Compacts.
4. The Indian School Equalization Program (ISEP) Formula.

DATES: July 26, 28, & 30, 1993, for all locations listed below, except, Anchorage, AK which will be held May 27, 1993. Scheduling of an earlier date for the Alaska meeting is in response to requests of tribal participants at previous consultation meetings in Anchorage. All meetings will begin at 8:00 a.m. and continue until 3:00 p.m. (local time) on the dates scheduled. Written comments concerning the consultation meeting items must be received no later than August 23, 1993.

iii

ADDRESSES:

MAY 27, 1993

<u>Location</u>	<u>Local Contact</u>	<u>Telephone</u>
1. ALASKA, Anchorage	Robert Pringle	907/271-4115

JULY 26, 1993

1. NEVADA, Las Vegas	Fayette Babby	916/978-4680
2. NEW MEXICO, Gallup	Larry Holman	505/786-6150
3. MINNESOTA, Mahmomen	Betty Walker	612/373-1090
4. OKLAHOMA, Tulsa	Jim Baker	405/945-6051

JULY 28, 1993

1. WASHINGTON, Seattle	Van Peters	503/230-5682
2. NEW MEXICO, Albuquerque	Val Cordova	505/966-3034
3. VIRGINIA, Arlington	Lena Mills	703/235-3233
4. SOUTH DAKOTA, Rapid City	Jim Davis	701/477-6471

JULY 30, 1993

1. ARIZONA, Phoenix	Beverly Mestes	602/562-3557
2. MONTANA, Billings	Larry Parker	406/657-6375

Written comments should be mailed, to be received, on or before August 23, 1993, to the Bureau of Indian Affairs, Office of Indian Education Programs, MS 3512 MIB, 1849 C. Street, NW, Washington, D.C. 20240, Attn: Dr. John Tippeconnic; OR, may be hand delivered to Room 3512 at the same address.

FOR FURTHER INFORMATION CONTACT: John Tippeconnic or Jim Martin at the above address or call 202/208-6123 or 208-3550.

SUPPLEMENTARY INFORMATION:

The meetings are a follow-up to similar twice-a-year meetings conducted by the BIA since 1990. The purpose of the consultation, as required by 25 U.S.C. 2010(b), is to provide Indian tribes, school boards, parents, Indian organizations and other interested parties with an opportunity to comment on potential issues raised during previous consultation meetings or being considered by the BIA regarding Indian education programs. A consultation booklet for the July meetings is being distributed to Federally recognized Indian tribes, Bureau Area and Agency Offices and Bureau-funded schools. The booklets will also be available from local contact persons and at each meeting.

DATE:

ASSISTANT SECRETARY - INDIAN AFFAIRS

v

CONTENTS

<u>Section</u>	<u>Page</u>
Consultation Authority and Process	Front Inside Cover
Tribal Leader/School Board Letter	i
Federal Register Notice	iii

CONSULTATION ITEMS	
Introduction	1
Programs available for American Indian and Alaska Native students funded by the Bureau of Indian Affairs and other Federal Agencies, including school operations.	9
Tribal Consultation Dates for 1994.	71
Inclusion of Indian School Equalization Program and Tribally Controlled Community College funds in Tribal Self-Governance Compacts.	73
The Indian School Equalization Program (ISEP) Formula.	77
Appendix--Status Report of January 1993 Consultation Items (Page 85)	
Proposed Amendments to P.L. 100 297	
Education Facilities' Space Guidelines	
Full Inclusion of Children with Disabilities in Regular Education	
Americans With Disabilities Act	
Reauthorization of Elementary and Secondary Education Programs (Not Reported)	
School Boundaries (Not Reported)	
Off-Reservation Boarding Schools (Not Reported)	

CONSULTATION ITEMS

An Introduction

All across America and in many parts of Indian Country a renewed focus and consciousness of education is emerging. America seeks to challenge the hearts and minds of student and adult alike. A vast array of promising ideas and strategies for educational reform are being tested; and, innumerable efforts are underway to revitalize the educational process into one which produces raised levels of aspiration, performance and demonstrated competencies.

The institutions of home and family, understandably, have a powerful impact upon education. The family must be the child's protector, advocate and moral anchor if the child is to experience success and happiness. The home must be a place where learning can happen.

For Indian America the challenge is great. But, the myriad of efforts to revitalize American education are not inconsistent with long held views of American Indians and Alaska Natives. Historically, Indian people have placed a high premium on the child and the young; and acknowledged the powerful affect which education has and will continue to have on the destiny and survival of "the people".

Traditionally, American Indians and Alaska Natives "educated" their young by experience--learning through doing. Teaching was done by those who had first hand knowledge about that which they taught. It was by word of mouth and demonstration; and, the lessons taught consisted of the practical skills and competencies needed for survival, success and happiness.

Tribal values, culture, customs and philosophies and the virtues of character, respect and honor which constituted the daily life of the people were an integral part of that which was taught. Those who practiced and demonstrated such values and virtues of character and had responsibility for "educating", were powerful role models.

While it may be virtually impossible to replicate the successes and methodologies of the past, the invaluable contributions which Indian tribes, parents and communities can make to education and society must be captured. Indian people must be brought into the arena of Indian education and participate actively in affecting the educational processes which will impact on their lives and those of their children and grandchildren for generations.

Bridgeways must be built between Indian people and the educational institutions which their children attend. The parents, homes and families from which Indian students come must sense, and know, that their involvement is meaningful if they are to be expected to participate actively in shaping education for their children.

Likewise, the governments and culture which distinguish and characterize the sovereignty of America's Indian Nations must be respected. It is the natural right of sovereign nations to control their own destiny. The inherent qualities of the special Federal-Indian trust relationship must be nurtured; and, the full scope of authorities and responsibilities made available if Indian Self-Determination, in the truest sense, is to be realized.

This is the philosophical basis for the July 1993 tribal consultation meetings. Inherently, this philosophy compliments, and is complimented by the Office of Indian Education (OIEP) Statement of Mission, Effective Schools Correlates, recommendations of the White House Conference on Indian Education (WHCIE), the Indian Nations At Risk (INAR) Task Force report, the National Education Goals and Indian America 2000 Goals.

Broad consideration to these Statements, Correlates, Recommendations and Goals is given in the consultation items. The Mission Statement and a summary of the Correlates, WHCIE recommendations, INAR Goals and Indian America 2000 Goals, are therefore, presented as a part of this Introduction to help clarify the overall basis for these Consultation meetings, as follows:

A. STATEMENT OF MISSION

Recognizing the special rights of Indian Tribes and Alaska Native entities and the unique government-to-government relationship of Indian Tribes and Alaska Native villages with the Federal Government as affirmed by the United States Constitution, U.S. Supreme Court decisions, treaties, Federal statutes, and Executive Orders, and as set out in the Congressional declaration in sections 2 and 3 of the Indian Self-Determination and Education Assistance Act (Pub. L. 93-638; 88 Stat. 2203; 25 U.S.C. 450 and 450a), it is the responsibility and goal of the Federal government to provide comprehensive education programs and services for Indians and Alaska Natives. As acknowledged in § 5 of the Indian Child Welfare Act of 1978 (P.L. 95-608; 92 Stat. 3069; 25 U.S.C. 1901), in the Federal Government's protection and preservation of Indian Tribes and Alaska Native villages and their resources, there is no resource more vital to such Tribes and villages than their young people and the Federal Government has a direct interest, as trustee, in protecting Indian and Alaska Native children, including their education.

The Mission of the Bureau of Indian Affairs, Office of Indian Education Programs, is to provide quality education opportunities from early childhood through life in accordance with the Tribes' needs for cultural and economic well-being in keeping with the wide diversity of Indian Tribes and Alaska Native villages as distinct cultural and governmental entities. The Bureau shall manifest consideration of the whole person, taking into account the spiritual, mental, physical and cultural aspects of the person within family and Tribal or Alaska Native village contexts.

B. EFFECTIVE SCHOOLS CORRELATES

- 1. CLEAR SCHOOL MISSION:** A clearly understood and accepted purpose statement that guides local education and a driving force for the education process designed to meet the unique needs of students.
- 2. SAFE AND SUPPORTIVE ENVIRONMENT:** A nurturing environment conducive to learning where all are respected and where children, staff and community can grow together to be the best they can be.
- 3. STRONG INSTRUCTIONAL LEADERSHIP:** It does not only mean the Principal but is the combined effort of all involved in the learning process by modeling, sharing, being proactive and seeking to meet student and staff needs.
- 4. HIGH EXPECTATIONS:** An atmosphere of challenge and confidence where students and staff develop to their full potential academically, socially, spiritually, culturally, emotionally, mentally and physically.
- 5. OPPORTUNITY TO LEARN/TIME ON TASK:** An intensive engagement where students can master and demonstrate the intended outcomes.
- 6. MONITORING AND FEEDBACK OF STUDENT PROGRESS:** Measuring student progress on the intended curriculum through a variety of means and relating progress to students and others in a positive manner.
- 7. HOME/SCHOOL/COMMUNITY RELATIONS:** Home, school and community have a clear understanding of the school's mission through open and active exchange of information and communication and active involvement of the community and home in the school and of the school in the home and community.
- 8. CURRICULUM AND INSTRUCTION:** Focusing and organizing educational activities and programs around the outcomes we want students to demonstrate.

Curriculum and instruction should be based on locally defined needs, reflect the culture and be developed with staff involvement. They should prepare students to meet graduation requirements, to succeed in future academic pursuits and to be productive and caring adults.

9. **PARTICIPATORY MANAGEMENT/SHARED GOVERNANCE:** Shared decision-making by parents, students, staff, administration and Tribe. A management style that enables all involved to feel that their contributions are important and valued and that develops a sense of ownership among all groups.
10. **CULTURAL RELEVANCE:** The enhancement of culture, integrated into all areas of a school, which encourages our students' self-esteem, respect and success.
11. **LOCAL, STATE AND FEDERAL COMMITMENT:** A genuine commitment to real change is evident not only on the part of the local school, but also by federal, state and local governments, tribal government and community organizations.

C. INDIAN NATIONS AT RISK GOALS

1. **READINESS FOR SCHOOL:** By the year 2000 all Native children will have access to early childhood education programs that provide the language, social, physical, spiritual, and cultural foundations they need to succeed in school and to reach their full potential as adults.
2. **MAINTAIN NATIVE LANGUAGES AND CULTURES:** By the year 2000 all schools will offer Native students the opportunity to maintain and develop their tribal languages and will create a multicultural environment that enhances the many cultures represented in school.
3. **LITERACY:** By the year 2000 all Native children in school will be literate in the language skills appropriate for their individual levels of development. They will be competent in their English oral, reading, listening, and writing skills.
4. **STUDENT ACADEMIC ACHIEVEMENT:** By the year 2000 every Native student will demonstrate mastery of English, mathematics, science, history, geography, and other challenging academic skills necessary for an educated citizenry.

5. **HIGH SCHOOL GRADUATION:** By the year 2000 all Native students capable of completing high school will graduate. They will demonstrate civic, social, creative, and critical thinking skills necessary for ethical, moral, and responsible citizenship and important in modern tribal, national, and world societies.
6. **HIGH QUALITY NATIVE AND NON-NATIVE SCHOOL PERSONNEL:** By the year 2000 the numbers of Native educators will double, and the colleges and universities that train the nation's teachers will develop a curriculum that prepares teachers to work effectively with the variety of cultures, including the Native cultures, that are served by schools.
7. **SAFE AND ALCOHOL-FREE, DRUG-FREE SCHOOLS:** By the year 2000 every school responsible for educating Native students will be free of alcohol and drugs and will provide safe facilities and an environment conducive to learning.
8. **ADULT EDUCATION AND LIFELONG LEARNING:** By the year 2000 every Native adult will have the opportunity to be literate and to obtain the necessary academic, vocational, and technical skills and knowledge needed to gain meaningful employment and to exercise the rights and responsibilities of tribal and national citizenship.
9. **RESTRUCTURING SCHOOLS:** By the year 2000 schools serving Native children will be restructured to effectively meet the academic, cultural, spiritual, and social needs of students for developing strong, healthy, self-sufficient communities.
10. **PARENTAL, COMMUNITY AND TRIBAL PARTNERSHIPS:** By the year 2000 every school responsible for educating Native students will provide opportunities for Native parents and tribal leaders to help plan and evaluate the governance, operation, and performance of their educational programs.

D. WHITE HOUSE CONFERENCE ON INDIAN EDUCATION

The report of the White House Conference on Indian Education was issued May 22, 1992. The Conference, held in January, 1992, produced more than 100 resolutions which were categorized by the report into the following five major themes.

1. Develop tribal departments of education to create opportunities for tribal and parental involvement in planning, evaluating and assessing education programs and operations for accountability.

2. **Integrate accurate and relevant American Indian/Alaska Native language, history, and culture into the core curriculum in those schools which serve that population.**
3. **Establish partnerships to coordinate services that support the well-being of American Indians/Alaska Natives, in particular local communities and families, educational institutions, and tribal, State and Federal governments in areas not limited to health, social, and education issues.**
4. **Develop avenues for innovative education and training.**
5. **Assure a comprehensive education environment from early childhood, elementary and secondary, post secondary, college and university.**

E. INDIAN AMERICA 2000 GOALS

1. **SCHOOL READINESS:** By the year 2000, American Indian and Alaska Native children will start school ready to learn.
2. **HIGH SCHOOL COMPLETION:** By the year 2000, the high school graduation rate for American Indian and Alaska Native students will increase to at least 90 percent.
3. **STUDENT ACHIEVEMENT AND CITIZENSHIP:** By the year 2000, American Indian and Alaska Native students will leave grades two, four, eight and twelve having demonstrated competency in English, mathematics, science, history and geography; and schools will ensure that all students learn to use their minds well and are prepared for responsible citizenship, further learning and productive employment.
4. **SCIENCE AND MATHEMATICS:** By the year 2000, American Indian and Alaska Native students will be among the country's first in science and math achievement.
5. **ADULT LITERACY AND LIFELONG LEARNING:** By the year 2000, American Indian and Alaska Native adults will be literate and possess the knowledge and skills necessary to compete in a global economy and exercise their rights and responsibilities of citizenship.

6. **SAFE, DISCIPLINED AND DRUG-FREE SCHOOLS:** By the year 2000, American Indian and Alaska Native schools will be free of drugs and violence and will offer a disciplined environment conducive to learning.
7. **TRIBAL GOVERNMENT, LANGUAGE AND CULTURE:** By the year 2000, American Indian and Alaska Native students will be provided the opportunity to maintain and enrich their Tribal language and culture.
8. **SAFE, ADEQUATE SCHOOL FACILITIES:** By the year 2000, all schools educating American Indian and Alaska Native students will meet applicable health and safety codes.

CONSULTATION ITEM # 1

CONSULTATION ITEM/TOPIC:

Programs available for American Indian and Alaska Native students which are funded by the Bureau of Indian Affairs and other Federal Agencies, including school operations.

POTENTIAL ISSUE OR CHANGE:

To assess what the future direction of OIEP programs should be with regard to program purpose, objectives and application processes.

REASON FOR PROPOSING ISSUE OR CHANGE:

With the involvement of Indian Country, the OIEP seeks to clarify the purpose and focus of programs which impact upon the education of American Indian and Alaska Native students; and, to clarify authorities and responsibilities of the Federal Government and Indian tribes, parents and committees regarding such programs.

It is intended that these programs appropriately consider applicable Federal policy; reflect perspectives of Indian Country; and incorporate current educational trends and focuses, including Effective Schools Correlates, findings of the Indian Nations At Risk Task Force, recommendations of the 1992 White House Conference on Indian Education, the National Education Goals and Indian America 2000 Goals.

CURRENT OPTION(S) BEING CONSIDERED BY THE BUREAU:

The OIEP seeks specific comments and recommendations from Indian Country.

BACKGROUND

=====

The Office of Indian Education Programs (OIEP) continues to focus on maximizing the quality of programs available for American Indian and Alaska Native students funded by the Bureau of Indian Affairs (Bureau) and other Federal Agencies. This current effort focuses on early childhood, elementary/secondary and post-secondary programs; and, overall, is two-fold in purpose:

1. To ensure a sound operational framework for Bureau-funded education and related programs which impact on students.
2. To establish cooperative arrangements with other available education and education-related programs and services which are funded by other Bureau organizational units, Federal/State agencies and other organizations; AND to seek coordination within/among agencies to achieve maximal benefit for students.

The OIEP seeks to ensure that the recommendations of the recent White House Conference on Indian Education and the Indian Nations at Risk Task Force are appropriately considered; and that applicable research findings and current trends and emphasis in education, including the national education goals and Indian America 2000 goals are incorporated into OIEP efforts.

The perspectives of Indian people, as incorporated into the recommendations and reports of the White House Conference and Indian Nations at Risk efforts, are important and invaluable. The OIEP believes that the views and knowledge of Indian people must be made a part of the operation of programs which impact upon their lives and those of their children and grandchildren.

Inherently, OIEP believes that every child can learn; that expectations for Indian students must be high, challenging, appropriate and creative; that the key relationship in formal schooling is that between the student, teacher and parent; and finally, that the parent and family must participate in education. These beliefs and precepts are fundamental. It is anticipated that the involvement of Indian Country in clarifying the purpose and focus of education and education-related programs encompassed by this consultation item WILL enhance the development of programs based on these and other fundamental beliefs and precepts. It is further anticipated that such involvement WILL be a major step in the direction of successful education program planning and meaningful results for students.

The very nature of this consultation item dictates that consideration be given to an interrelated array of factors, not the least of which are the repeated expressions of Indian people that local control and Indian involvement be made a reality. The OIEP is, therefore, attempting, by this effort, to accommodate these concerns often expressed at tribal consultation meetings, and at the same time fully address the mission statement, effective schools correlates, reports and goals which are included in the introductory portion of this booklet.

CONCLUSION: A basic outline for each program encompassed by this Item #1 is provided. This includes education programs funded by the Bureau and other programs that impact on American Indian and Alaska Native students which are funded by other organizational units of the Bureau and other Federal Agencies.

The outline is intended to permit wide latitude for consultation participants to provide extensive input and recommendations. The OIEP is planning to devote considerable time in work sessions during the consultation meetings to enable the reworking of the outline to reflect the views of Indian participants as to the individual programs. It is hoped that one formal document which represents the majority view of participants can be produced at each of the 11 meetings.

In seeking to establish and maintain coordination of programs/services within the Bureau and with other Federal Agencies, the OIEP will receive comments and is willing to formally advise and discuss comments on the non-OIEP items with the appropriate organizational entities and agencies.

The OIEP does not claim any authority or responsibility for programs which are not funded by the OIEP, except those which are administered by OIEP with funds from other Federal Agencies. The information provided for these programs is intended to help clarify the nature of each program's purpose, objectives and any authorities and/or responsibilities available to Indian tribes, parents and/or committees.

Comments and recommendations are requested within the following broad questions:

QUESTIONS:

1. What suggestions do you have to improve program effectiveness?
2. What do you consider to be specific needs of students, and, how can programs more adequately focus on these needs?

QUESTIONS (Cont'd):

3. What can be done to encourage parental participation in the school?
4. What can be done to improve the school board role in the overall school?
5. What should be the role of the OIEP with Social Services, Indian Health Services, U.S. Department of Education and others to help bring about more effective, comprehensive services.

PROGRAM OUTLINES

A. ELEMENTARY AND SECONDARY -- OIEP ADMINISTERED/COORDINATED

1. Basic Instructional
2. Basic Residential
3. Family and Child Education
4. Intense Bilingual Education
5. Drug-Free Schools
6. Chapter 1
7. Intensive Residential Guidance
8. Junior Achievement
9. Close Up Foundation
10. Bureau of Land Management - Jobs Training
11. Exceptional Child Education
12. Exceptional Child Residential

B. ASSISTANCE FOR PUBLIC SCHOOL STUDENTS -- OIEP ADMINISTERED

1. Johnson-O'Malley

C. ELEMENTARY/SECONDARY PROGRAM/STAFF DEVELOPMENT -- OIEP

1. Effective Schools
2. Whole Language Summer Workshops
3. Eisenhower Math and Science Programs
4. Principals Leadership Academy

D. U.S. DEPARTMENT OF EDUCATION -- USDOE ADMINISTERED

1. Title V
2. Impact Aid

E. POST SECONDARY EDUCATION -- OIEP ADMINISTERED

1. Haskell Indian Junior College
2. Southwestern Indian Polytechnic Institute
3. Higher Education Grant Program
4. Special Higher Education Grants
5. Pre-Law Summer Program
6. Adult Education
7. Tribally Controlled Community Colleges

F. OFFICE OF INDIAN SERVICES -- BIA ADMINISTERED

- 1. General Assistance**

G. INDIAN HEALTH SERVICES

- 1. School-Based Programs**
- 2. Alcoholism and Substance Abuse Program**
- 3. Health Education Program**
- 4. Maternal and Child Health**
- 5. Environmental Health and Engineering Services**
- 6. Contract Health Services**
- 7. Preventive Health Services**
- 8. Nutrition Program**
- 9. Mental Health Program**
- 10. Dental Program**
- 11. Pharmacy Services**

***A. ELEMENTARY AND SECONDARY
OIEP ADMINISTERED/COORDINATED***

BASIC INSTRUCTION

A. PURPOSE AND OBJECTIVES

DESCRIPTION:

Bureau-funded elementary and secondary schools provide a full range of basic educational programs and activities similar to those which a public school provides. In addition, these schools offer general Native American and/or specific tribal cultural programs and activities. Such programs can be both basic and supplemental to the academic program. Additionally, bilingual and English as a Second Language instruction are available.

Each school is governed by a locally elected, or in some cases, appointed school board who exercise responsibilities and powers similar to those of public school boards.

The services vary from school to school but may range from programs for kindergarten through twelfth grade students. Bureau-funded schools currently serve approximately 10% of the Native American school-age children. Academic programs include, but are not limited to, instructional disciplines such as reading, language arts, English, Social Studies (including cultural/tribal history), mathematics, sciences, fine and industrial arts, music, library studies, computer literacy, business, and other programs too numerous to list.

A majority of schools are rural and many have attendance areas covering large, remote geographic areas. Many have bus routes which cover hundreds of miles.

PROGRAM ELIGIBILITY REQUIREMENTS:

1. An eligible Indian student means a person who:
 - A. is a member of, or is at least a one-fourth degree Indian blood descendant of a member of, an Indian tribe which is eligible for the special programs and services provided by the Bureau of Indian Affairs; and,
 - B. resides on or near an Indian reservation or meets the criteria for attendance at a Bureau off-reservation boarding school.

2. A student who is not an eligible student may attend a Bureau school if:

- A. The appropriate Agency Superintendent for Education or Area Education Programs Administrator approves in writing;
- B. It is determined that the student's attendance will not adversely affect the school's program for eligible Indian students;
- C. The school board consents; and either
 - 1) The student is a dependent of an employee of the Bureau, Indian Health Services or tribal government who lives on or near the Bureau school site; or
 - 2) A tuition is paid for the student that is not more, but may be less, than that charged by the nearest public school district for out-of-district students.

3. As a matter of policy, by memo of December 17, 1990, the OIEP Director advised that the School Board should establish written policy concerning:

- A. When a student who is not an eligible Indian student may attend a Bureau-funded school.
- B. The tuition rate to be charged and when payment is to be made. A tuition is to be collected for all students that are not eligible Indian students, with the exception of dependents of Bureau, Indian Health Service and tribal government employees who live on or near the Bureau school site.

MEASURABLE OBJECTIVES: Specific measurable objectives vary from school to school; however, the overall goal of Bureau elementary and secondary education programs is to raise the educational achievement of Indian students in Bureau schools to levels that meet or exceed national norms by the year 2000.

APPLICATION PROCESS: The process varies between schools; however, as a part of completing an appropriate application, applicant must also provide a Certificate of Degree of Indian Blood (CDIB) or other official documentation to prove eligibility.

BASIC RESIDENTIAL

A. PURPOSE AND OBJECTIVES

DESCRIPTION:

The goal of the basic residential programs is to assure that each student in the program has a safe homeliving environment in which there is available both academic and personal counseling, where assistance in successfully coping with substance abuse is provided and where there are activities that teach the healthy and productive use of leisure time. The residential program exists to support both students and the academic program. By helping the student cope with problems ranging from extremely lengthy travel to and from school to negative peer pressure to dysfunctional families, the residential program exists to assist the student improve, grow and mature both socially and academically.

PROGRAM ELIGIBILITY REQUIREMENTS:

1. An eligible Indian student means a person who:
 - A. is a member of, or is at least a one-fourth degree Indian blood descendant of a member of, an Indian tribe which is eligible for the special programs and services provided by the Bureau of Indian Affairs; and,
 - B. resides on or near an Indian reservation or meets the criteria for attendance at a Bureau off-reservation boarding school.
2. A student who is not an eligible student may attend a Bureau school if:
 - A. The appropriate Agency Superintendent for Education or Area Education Programs Administrator approves in writing;
 - B. It is determined that the student's attendance will not adversely affect the school's program for eligible Indian students;

C. The school board consents; and either

- 1) The student is a dependent of an employee of the Bureau, Indian Health Services or tribal government who lives on or near the Bureau school site; or
 - 2) A tuition is paid for the student that is not more, but may be less, than that charged by the nearest public school district for out-of-district students.
3. As a matter of policy, by memo dated December 17, 1990, the OIEP Director advised that the School Board should establish written policy concerning:
- A. When a student who is not an eligible Indian student may attend a Bureau-funded school.
 - B. The tuition rate to be charged and when payment is to be made. A tuition is to be collected for all students that are not eligible Indian students, with the exception of dependents of Bureau, Indian Health Service and tribal government employees who live on or near the Bureau school site.

MEASURABLE OBJECTIVES:

Specific measurable objectives vary from school to school; however, the overall goal of Bureau elementary and secondary education programs is to raise the educational achievement of Indian students in Bureau schools to levels that meet or exceed national norms by the year 2000.

APPLICATION PROCESS:

The process varies between schools; however, as a part of completing an appropriate application form, the applicant must also provide a Certificate of Degree of Indian Blood (CDIB) or other official documentation to prove eligibility for enrollment.

FAMILY AND CHILD EDUCATION PROGRAM (FACE)

A. PURPOSE AND OBJECTIVES

DESCRIPTION:

The FACE program is a family literacy program that serves children ages 0-5 and their parents. Since inception, program emphasis has been on increasing the academic and parenting skills of adults, increasing parental participation in their children's learning and raising the parents' expectations for the children's achievement. In addition, heightening parental awareness of their responsibility for their children's learning; and, preparing all children for school readiness and success have also been a focus of the program. The program is comprised of four (4) components: Early Childhood; Parent-time; Parent and Child Interaction Time and Adult Education. Overall, the components focus on several National Education Goals including, specifically, Readiness for School, High School Graduation, Literacy and Lifelong Learning; Safe Schools Free of Alcohol & Drugs, and the Indian America 2000 goal of preserving Tribal History, Culture and Language.

The program is based on a combination of 3 successful national models which have been correlated and integrated to meet the needs of Native American families. Children, ages 0-3, and their parents are served by parent educators in a home-based setting. This program, designed after the Missouri Parents As Teachers (PAT) Model, enables parent educators to provide parent participants in the program with information on child development, parenting skills, and, techniques to enable the parents to help their child learn through play in the home.

Children, ages 3-5, and their parents are served in a center-based setting designed after the Kentucky Parent and Child Education (PACE) Model as adapted by the National Center for Family Literacy. The parent and child arrive at school each morning by school bus. After breakfast together the child attends an early childhood class structured as a high scope active learning curriculum adapted to incorporate the cultural needs of the Indian community. At the same time, the parent attends an adult education class structured to enable them to address their individual education needs. The parents and children come together again during mid-morning for joint, supervised learning activities. After lunch together, the child returns to the early childhood classroom and the parent to the Adult Education room for parent-time activities. Parent time activities includes information about child development and common issues/problems dealing with child rearing and family needs. Outside resources through other service organizations are utilized to provide parents with information on nutrition, fetal alcohol syndrome, drug and alcohol and self esteem.

PROGRAM ELIGIBILITY REQUIREMENTS:

Any Bureau-funded school is eligible to apply if the following requirements are in place: Adequate, safe and appropriate facilities, including playground area, based on program needs and life-safety codes for children, ages 0-5, and their parents; a willingness to implement a 0-3 home-based program using the PAT model and, a center-based program adapted after the PACE model; a willingness to extend the active learning curriculum to grades K-3; and no outstanding audit exceptions.

MEASURABLE OBJECTIVES:

The objectives are intended to enable parents to recognize and understand stages of development of children; utilize the skills and information obtained in the program with their own children; increase the early detection of potential learning problems, such as hearing, vision, developmental; and increase parents' level of education.

APPLICATION PROCESS:

As funds become available, requests for application may be obtained from appropriate education area/agency line officers. A three step selection process will be used to review, approve and select awardees, as follows: (1) Outside readers review and rank all applications using an established point system; (2) An OIEP Early Childhood Specialist and facilities and safety officers make a site visit to determine whether adequate and safe facilities are available. During this visit discussion of the program application and requirements is held with the school administrator and school board. (3) An information meeting is held with the principal and at least one school board member at which time, more in-depth information regarding the program is provided. After this a visit of the total school facility is made.

INTENSE BILINGUAL EDUCATION

A. PURPOSE AND OBJECTIVES

DESCRIPTION:

The Bilingual Education Program, funded as a part of ISEP, is to assist Indian children having Limited English Proficiency (LEP). The program is intended to help these children improve their English language skills to the level that allows them to learn successfully in classrooms in which instruction is in English.

Overall, the program is intended to serve students (1) whose primary language is not English; (2) who are receiving academic instruction daily through oral and/or written forms of an Indian/Alaska Native language; and, (3) who are also receiving specialized instruction in English.

Limited English Proficiency refers to a student who: (1) comes from a home in which the primary language is other than English; (2) is from a home in which a language other than English has had a significant impact on the level of English language proficiency; and, (3) has sufficient difficulty in understanding, speaking, reading, or writing the English language to deny them the opportunity to learn successfully in classrooms in which instruction is in English (as determined by results on a nationally accepted test to determine English proficiency).

PROGRAM ELIGIBILITY:

In addition to basic program eligibility requirements, any K-3 student whose primary language in the home is not English; and, who needs special assistance to develop language proficiency.

Schools enrolling students in grades 4-12 who can document justification for such students are also eligible for ISEP bilingual education program funds.

MEASURABLE OBJECTIVES:

To improve the language proficiency of children by helping them understanding, read and write the English language.

Schools having students participating in this ISEP Bilingual Education program are expected to establish and maintain a plan for evaluation of the progress and achievements of each child.

APPLICATION PROCESS:

Schools in which students are enrolled determine whether a student meets program eligibility requirements. For those students who meet such requirements, the school develops appropriate documentation and places the student in appropriate bilingual education classes and activities.

DRUG FREE SCHOOLS

A. PURPOSE AND OBJECTIVES

DESCRIPTION:

The Drug Free Schools Program is administered by the Office of Indian Education Programs under a Memorandum of Agreement between the U.S. Department of Education and the Bureau of Indian Affairs. Authorized under the Drug-Free Schools and Communities Act of 1986, a 1% set aside is available for distribution to Bureau-funded schools. Funds are distributed to the schools with each receiving a \$5000 base. Added amounts are determined by use of the ISEP formula.

Overall, the program provides funds for alcohol and drug abuse education and prevention. The Program seeks to ensure that students have a safe, drug-free environment and are instructed/counseled as to the dangers of alcohol and drug use. The program is also intended to increase the awareness of teachers and staff to student behavior that may indicate alcohol/drug abuse problems.

A student support group concept is emerging within the program and is intended to help students develop "coping" skills in areas of personal adjustment, handling grief and loss, guilt, and abusive behavior. Such support groups can provide a mechanism whereby a student deals with and works through his/her problems. It is envisioned that the Student Support Group technique will serve as an option to student expulsion, suspension and voluntary school drop-out.

Schools that become Drug/Alcohol free display metal signs that state "ALCOHOL AND DRUG FREE SCHOOL ZONE." announcing an alcohol and drug free campus.

Overall, the program provides for:

1. **In-service Staff Training:** This provides comprehensive training to both academic and residential staff in the areas of counseling and assisting students that have encountered problems with substance abuse; assists staff in recognizing and dealing with possible instances of substance abuse.
2. **Curriculum Development and Implementation:** This provides for local input into curriculum development with emphasis on locally encountered problems.
3. **Activities to Improve student self-esteem/alcohol and drug coping skills.**

4. Development of constructive use of leisure time and healthy life styles.
5. Cultural and traditional awareness and providing students with information on the dangers of substance abuse and the benefits of being free of substance abuse.
6. Improved parent/student communication and parental awareness of the social/emotional needs of the student and to develop positive relationships between parent and child.
7. Involvement with community agencies and Tribal Government.

PROGRAM ELIGIBILITY REQUIREMENTS:

All students, grades K-12, enrolled in Bureau-funded schools are eligible to participate in program activities.

No standard curriculum is required of the school. However, schools are expected to develop programs that yield results.

MEASURABLE OBJECTIVES:

1. To decrease the number of incidents involving substance abuse.
2. To decrease the number of students involved with substance abuse.
3. To increase student self-esteem.
4. To increase staff and community awareness of substance abuse related problems.

APPLICATION PROCESS:

Schools submit an application to OIEP which has been developed and approved by the Agency/Area Education Line Officer, administration of the school, staff and school board. Applications, due about May 1, must include a narrative description of activities, signed assurances and a detailed budget. In addition, an annual report is required to be submitted to OIEP no later than 45 days after the close of school.

CHAPTER 1

A. PURPOSE AND OBJECTIVES

DESCRIPTION:

The Chapter 1 program is administered by the Office of Indian Education Programs (OIEP) through a grant from the U.S. Department of Education. Authorized under Title 1 of the Elementary and Secondary Education Act of 1965, as amended by P.L. 100-297, Chapter 1 is supplementary to the school's regular academic program.

The Program is designed and intended to raise the academic performance of students identified for program participation. Traditionally, Chapter 1 has emphasized Reading, Mathematics and Language Arts. Students targeted for program participation are identified through written or oral testing; and other methods chosen by the school to assure that students with the greatest need are served.

P.L. 100-297 provides increased flexibility in Chapter 1 services, including the ability for a school to expand the Chapter 1 program to include services other than the traditional reading, math and language arts emphasis. The Law also increased the focus of Chapter 1 to include parent programs, including a requirement that schools train parents in skills that enable them to help their children raise academic performance and, thus, assist the school in accomplishing Chapter 1 objectives. The schools are also to train staff and administrators to build partnerships between the home and school.

In addition, P. L. 100-297 authorizes Bureau-funded schools to use Chapter 1 funds to upgrade the entire school through a school-wide project which serves all students. Participation in school-wide projects requires that the school conduct a total school needs assessment, including, academic, social, emotional needs of the student in addition to assessing the needs of the school's total education program. Based on results of the needs assessment, the school may choose to use funds to improve the educational opportunities of all children.

Schools choosing to implement a school-wide projects must, after 3 years into the project, demonstrate that student academic gains are greater under the school-wide project than under the traditional Chapter 1 program. At present, more than half of the Bureau-funded schools have implemented School-wide projects.

All Chapter 1 services are provided because students perform academically lower than expected.

PROGRAM ELIGIBILITY REQUIREMENTS:

All Bureau funded schools are eligible to receive Chapter 1 funds. Participation is based on an approved program plan.

MEASURABLE OBJECTIVES:

Overall, Chapter 1 focuses on program development and implementation intended to:

1. Assist educationally deprived children attain grade level success in the regular education program of the school. The Bureau has established a 2 NCE (Normal Curve Equivalent) standard for all programs.

Success in basic and advanced skills is measured by standardized achievement tests and other desired outcomes.

APPLICATION PROCESS:

Participating schools annually submit an application which is screened to ensure compliance with Chapter 1 law and regulations

Funds are distributed based on an approved application, with the level of each school's funding determined by formula. The formula takes into consideration the Schools' ADM count, with appropriate consideration for small schools, and is intended to allow all schools adequate funding to operate a program that is of sufficient size, scope and quality to insure success.

INTENSIVE RESIDENTIAL GUIDANCE

A. PURPOSE AND OBJECTIVES

DESCRIPTION:

The Intensive Residential Guidance Program (IRG), funded as a part of the Indian School Equalization Program (ISEP), is intended to provide special services for students enrolled in Bureau-funded residential programs. Personal counseling with students is a major aspect of program services. By regulation, five (5) hours of counseling per week is required for student participants. Generally, the program is characterized by program staff frequently having to intervene for, with, or, on behalf of students in crisis situations.

Student participants in the program are most usually enrolled in the residential program due to at least one of several specific problems. These problem areas are identified as those which have manifested themselves by the student having been:

1. Referred for placement by a Court of juvenile authority as a result of a pattern of infractions of the law;
2. Expelled from a previous school [under due process];
3. Referred by a licensed psychologist, psychiatrist or certified psychiatric social worker as emotionally disturbed; OR
4. Truant more than 50 days in the last school year, or displayed a pattern of extreme disruptive behavior.

PROGRAM ELIGIBILITY:

As a part of the IRG program placement, specific records are required to document the basis for placement including:

1. Written request of court or juvenile authority for placement;
2. Certification from expelling school, court and/or social service agency records indicating drop out status, expulsion under due process and/or 50 or more days of truancy during this or last school year;

3. Report of licensed Psychologist, psychiatrist, or psychiatric social worker certifying a student as socially maladjusted.
4. History of extreme disruptive behavior with appropriate records or incident reports may also certify eligibility. Extreme disruptive behavior must be on a regular and reoccurring basis.
5. A diagnostic workup, a placement decision by a minimum of three (3) staff members, and an individual treatment plan (ITP) with service objectives are required.

No student who is eligible for services at a full or part time level because of a handicapping condition, as defined by Exceptional Child program criteria, can be classified for IRG.

MEASURABLE OBJECTIVES:

The ITP required for each participant specifies individual student objectives. Individualized objectives are necessary because different students enter the program for different reasons and have different needs.

Overall, the program is intended to assist students who need help above and beyond the services provided for all students.

APPLICATION PROCESS:

Program participants are identified and determined by each individual school and staff. Fulfilment of the above identified documentation is necessary for each student and must be maintained by the school.

JUNIOR ACHIEVEMENT

A. PURPOSE AND OBJECTIVES

DESCRIPTION:

The Bureau and Junior Achievement, through a Memorandum of Understanding, entered into a partnership to improve the economic literacy of American Indian and Alaska Native high school and junior college students in Bureau-funded schools.

The Junior Achievement organization provides all materials and training through a grant from the Kellogg Foundation. Some sixteen (16) Bureau-funded high schools elected to participate in this project which is intended to raise participating students' understanding of the American Economic system. The economics curriculum used by the participating schools is provided by the National Junior Achievement Program.

PROGRAM ELIGIBILITY REQUIREMENTS:

Available to Bureau funded High Schools, Grades 9-12

MEASURABLE OBJECTIVES:

To use the high school programs of Junior Achievement modified to meet the special needs of Native American students.

To increase the economic literacy of participating American Indian and Alaska Native students.

To provide students with a learning experience that includes the actual start-up and operation of a business.

APPLICATION PROCESS:

Schools wishing to participate in this program only need to advise the appropriate Education Line Officer of this desire and their willingness to implement the Junior Achievement applied economics curriculum.

CLOSE UP FOUNDATION

A. PURPOSE AND OBJECTIVES

DESCRIPTION:

The Office of Indian Education Programs (OIEP) provides funds for the Close-Up Foundation program which is intended to expose participating students to the organization and operation of the Federal Government.

The year-long program, a part of the civics/social studies curriculum of the school, culminates with a week-long stay in Washington, DC during early spring. While in Washington, the students participate in highly structured activities with other public and private school students from across the country. They attend House and Senate sessions, participate in daily seminars conducted by attorneys, legislators, and staff involved in Governmental processes. Bureau students are involved in the discussion of issues which are of particular interest to American Indians/Alaska Natives. In addition, visits are made to historical places of interest and appointments are scheduled for the students to meet with their congressional representatives.

The Close Up Foundation is a civic organization that contracts with OIEP to develop Close Up programs for high school students in Bureau-funded schools. Forty-seven (47) schools participated during the 1992-93 school year.

PROGRAM ELIGIBILITY REQUIREMENTS:

Student participants must be Juniors or Seniors in high school, and schools having students participating in the program must also have a teacher sponsor.

MEASURABLE OBJECTIVES:

APPLICATION PROCESS:

RESOURCE APPRENTICESHIP PROGRAM FOR STUDENTS

A. PURPOSE AND OBJECTIVES

DESCRIPTION:

Under a Memorandum of Agreement, the Bureau cooperates with the Bureau of Land Management (BLM) to provide Bureau-funded high school students with opportunities to be involved in land resource management through RAPS.

Overall, the RAPS program provides exposure experiences and summer work opportunities for students interested in becoming familiar with the professions available in land management. Students may also earn credit for such participation at any of the Bureau-funded post secondary schools and colleges.

PROGRAM ELIGIBILITY REQUIREMENTS:

To participate students must be Juniors or Seniors in High School.

MEASURABLE OBJECTIVES:

To educate and expose students to the wide range of professional areas and jobs related to land management.

To provide one-on-one training for participants in selected areas of work.

APPLICATION PROCESS:

The BLM notifies OIEP of RAPS summer opportunities; line officers are informed; and schools begin notifying students of such opportunities.

EXCEPTIONAL CHILD - (EDUCATION)

Description

The Special Education program is administered by the Office of Indian Education Programs (OIEP) through a grant from the U.S. Department of Education. Authorized under Part B of the Individuals with Disabilities Education Act (IDEA) as amended, by (Public Law 102-119). IDEA was previously known as the Education of the Handicapped Act, (Public Law 94-142).

Supplemental Part B funds are provided to meet the excess costs of Special Education and related services provided to children with disabilities.

Program Eligibility Requirements

Children with disabilities must meet the statutory federal disability categories and regulatory definitions. Individual participation is determined by an evaluation by a multidisciplinary team which results in an Individualized Education Plan (IEP). The IEP describes the unique Special Education and related services that are to be provided to the child.

Measurable Objectives

To provide a free appropriate public education to children with disabilities, as described in their IEPs, which is determined annually by the multidisciplinary team and parents.

Compliance is determined by monitoring in accordance with all applicable laws and regulations.

Quality and effectiveness of programs is determined through annual self-evaluation at all levels (i.e., school, Area/Agency, Central Office).

Application Process

Each Agency submits a Comprehensive Plan for the provision of services to children who are disabled, including a budget, which outlines the use of Indian School Equalization Program (ISEP) base funds and the IDEA supplemental funds. Schools submit applications to each Education Line Officer for approval.

Every three years, the OIEP must submit a Comprehensive "State" Plan to the U.S. Department of Education for their approval. The plan describes how the OIEP will meet the Federal requirements of (Public Law 102-119). Prior to the submission of the plan to the U.S. Department of Education, the OIEP must conduct public hearings to obtain comments and recommendations from concerned individuals. These hearings have been held consistently since the inception of the program in 1975. This process meets the consultation requirements of (Public Law 100-297).

EXCEPTIONAL CHILD – (RESIDENTIAL)

Description

This is an extended school-day educational program for children with disabilities in boarding schools who have been determined by the multidisciplinary team to need extended educational program-ming. All Exceptional Child Residential (ECR) services must be described in each child's Individualized Education Plan (IEP). All services must be supervised by qualified personnel.

Program Eligibility Requirements

All boarding schools are eligible to receive ECR funds. Children with disabilities must meet the statutory federal disability categories and regulatory definitions. Individual participation is determined by an evaluation by a multidisciplinary team which results in an IEP.

Measurable Objectives

To provide a free appropriate public education to children with disabilities beyond the regular school day, as described in their IEPs, which is determined by the multidisciplinary team and parents.

Compliance is determined by monitoring in accordance with all applicable laws and regulations.

Quality and effectiveness of programs is determined through annual self-evaluation at all levels (i.e., school, Area/Agency, Central Office).

Application Process

ECR funds are provided to boarding schools through the Indian School Equalization Program (ISEP). Each participating boarding school must describe their ECR program in their Comprehensive Plan, including a budget, must meet all ISEP requirements and applicable laws and regulations.

B. ASSISTANCE FOR PUBLIC SCHOOL STUDENTS
OIEP ADMINISTERED

JOHNSON-O'MALLEY

A. PURPOSE AND OBJECTIVES

DESCRIPTION:

The program derives its name from the 1934 Johnson-O'Malley (JOM) Act which authorized contracts with states and other political entities for Indian elementary and secondary students enrolled in Public Schools. Amended in 1936 and again in 1975 by the Indian Self-Determination and Education Assistance Act, the JOM program is for the purpose of financially assisting those efforts designed to meet the specialized and unique educational needs of eligible Indian students, including programs supplemental to the regular school program and school operational support, where such support is necessary to maintain established State educational standards. Funds may also be used for three and four year old children. The program focuses on the special needs of Indian and Alaska Native students and children due to unique social, economic and cultural factors.

A Policy of Maximum Indian Participation specifies, in part, that "The meaningful participation in all aspects of educational program development and implementation by those affected by such programs is an essential requisite for success. ..."

The JOM Indian Education Committee which helps maximize meaningful Indian participation is vested with the authority to:

1. Participate fully in planning, development, implementation and evaluation of all programs;
2. Approve and disapprove programs to be contracted;
3. Recommend, through specified channels, the cancellation/suspension of contract(s) if contractor fails to permit specified exercise of committee powers and duties.

In 1992 there were a total of 324 contracts, located in 32 states across the nation. Approximately 450 Public Schools participate in the JOM program. The total number of Indian students attending Public Schools in FY 91 was 228,738. Of the 324 contracts, 172 were tribal, 53 Tribal Organizations, 93 Public School Districts and 6 with State Departments of Education. The 1991 base value per student was \$105.78.

PROGRAM ELIGIBILITY:

1. **Eligible Applicant:** Any state, school district, tribal organization or Indian corporation is eligible to apply for contracts for supplemental or operational support programs. Previously private schools as defined in 25 CFR §273.2(n) for purposes of JOM are considered tribal organizations.
2. **Eligible Students:** Indian students, ages 3 years through grade 12, except those enrolled in Bureau or sectarian operated schools; and who are members of, or at least a one fourth degree Indian blood descendent of a member of an Indian tribe which is eligible for the special programs and services provided by the United States through the Bureau of Indian Affairs to Indians because of their status as Indians.

Priority is given to contracts which would serve students on or near reservations; and, where a majority of such students will be members of the tribe(s) of such reservation.

MEASURABLE OBJECTIVES:

APPLICATION PROCESS:

***C. ELEMENTARY & SECONDARY
PROGRAM AND STAFF DEVELOPMENT***

EFFECTIVE SCHOOLS PROGRAM

A. PURPOSE AND OBJECTIVES

DESCRIPTION:

The Effective Schools program is a research based school improvement process built around certain characteristics which have been found to be common among successful schools in American education. These characteristics, or Correlates, emphasize having a clear school mission, curriculum development, staff training in educational leadership and the close involvement of parents and the community. The research on effective schools and effective teaching has shown that these factors, or correlates, DO help schools become more effective.

The Effective Schools Model was adopted and implemented by the Bureau in FY 1988. Since then the Bureau has continued to systematically bring added schools into the program on an individual school-by-school basis.

The Correlates which have been adopted and defined by the Bureau are set out in the introductory section of this booklet. The Correlates, however, are briefly listed as follows:

1. A Clear School Mission
2. A Safe and Supportive School Environment
3. Strong Instructional Leadership
4. High Expectations
5. Opportunity to Learn/Time on Task
6. Monitoring and Feedback of Student Progress
7. Home/School/Community Relations
8. Curriculum and Relations
9. Participatory Management/Shared Governance
10. Cultural Relevance

PROGRAM ELIGIBILITY REQUIREMENTS:

All Bureau-funded Schools are eligible to participate in the Program.

MEASURABLE OBJECTIVES:

The overall objective is to accomplish actual implementation of the ten (10) Correlates in all schools and achieve effective teaching and Effective Schools.

APPLICATION PROCESS:

Individual schools may make application to the Bureau Effective Schools Team (BEST) who reviews/rates/ranks applications based on a pre-established point system. The point system is structured to assess Evidence of the applying school's need to improve; Evidence of Commitment; The School's Prior Track Record; and Administrator Stability.

Upon completion of the ranking process, a site visit is made to applying schools to validate their application. Schools selected for participation are notified of their selection soon after January, and official awards for participation are made at the annual conference of the National Indian School Board Association.

EISENHOWER MATH & SCIENCE PROGRAMS

DESCRIPTION: The program provides a variety of actives including the following:

MATHEMATICS & SCIENCE SUMMER WORKSHOPS:

Each Summer, the OIEP sponsors Math and Science Workshops for Bureau-funded school teachers. Five such workshops were held in 1992 with approximately 300 teachers participating. The same number of workshops and participants are anticipated for the Summer of 1993. The purposes of the programs are to:

1. Assist the teachers in upgrading and expanding their knowledge of scientific and technical concepts;
2. Upgrade instructional and related equipment used in Science, Math and related classes; and
3. Encourage students in Bureau-funded schools to pursue scientific and technical careers, including advanced degrees in Science, Engineering and Mathematics.

The 1992 workshops were held at Haskell Indian Junior College, Sinte Gleska University in conjunction with the South Dakota School of Mines and Technology, and the Navajo Community College in conjunction with Northern Arizona University.

SANDIA NATIONAL LABORATORY PROGRAM:

Sandia and Los Alamos National Laboratories, through a telecommunications network, provide advice and training to teachers in new techniques of teaching math and science. Scientists also spend one week each month in a selected Bureau-funded school during which time they work with teachers and students. They assist the teachers in presenting ideas on math and science in the classroom and also work with the teachers in organizing local science fairs. Approximately 30 BIA funded schools have participated as of 1992.

ELECTRONIC NATIVE AMERICAN NETWORK (ENAN):

ENAN is an electronic network that is available to all Bureau-funded schools. Teachers, administrators and students can communicate with each other via electronic mail and various special interest bulletin boards. Math and Science have

been offered over ENAN and cooperative class activities have been accomplished between various school sites. The network is centered at the University of New Mexico and schools are able to access the various services through an 800 number.

SUMMER, 1993 STUDENT PROGRAMS:

During the summer of 1993, 45 High School/Jr. High teachers of math and science will participate in a program at The Virginia Military Academy (VMI) to begin the development of Math and Science teaching modulars.

In addition, 80 teachers, from some 40 schools will participate in a scientific holistic language workshop at the University of Arizona to incorporate science and whole language into the school curriculum.

Finally, 45 Bureau students will participate in a 6-week Math and Science Accelerated Program to be held on the campus of the Southwestern Indian Polytechnic Institute.

PROGRAM ELIGIBILITY REQUIREMENTS: Teacher and students in Bureau-funded schools.

MEASURABLE OBJECTIVES:

To incorporate a "hands on" approach to math and science.

To bring in the general cultural relevance of Native American tribes.

To improve student math and science achievement scores.

To motivate teachers and bring about a more positive outlook in the teaching of mathematics and science.

To help students explore different careers in math and science fields.

APPLICATION PROCESS: Applications are mailed to Agency/Area Education Line Officers and Bureau-funded schools. In reviewing the applications and selecting participants, broad consideration is given to ensuring that as many new participants as possible are selected each year, and that there is broad geographical representation.

PRINCIPALS TRAINING

A. PURPOSE AND OBJECTIVES

DESCRIPTION:

A Principals Leadership Academy provides training for all elementary and secondary principals of Bureau-funded schools. During 1992, an educational leadership seminar was held for all principals and area/agency education line officer in conjunction with the Bureau's Chapter 1 Program National Conference.

The seminar stressed instructional leadership in such areas as authentic assessment; early childhood/family literacy; new and innovative programs to increase educational achievement.

PROGRAM ELIGIBILITY REQUIREMENTS: All Bureau-funded elementary and secondary school principals are eligible to participate in the programs.

MEASURABLE OBJECTIVES:

The overall objectives of the program are to:

1. Increase awareness, knowledge and skills of administrators regarding "cutting edge" programs;
2. Increase the number of Bureau-funded schools that provide "cutting edge" programs for their students; and
3. Provide a systematic method for the dissemination of information on new education program methods and trends.

APPLICATION PROCESS:

All principals are notified of Academy and Seminar dates and encouraged to participate.

D. U.S. DEPARTMENT OF EDUCATION
USDOE ADMINISTERED

TITLE V

DESCRIPTION:

The Title V is broken into three (3) subpart programs, as follows:

Subpart I -- Grants to Local Education Agencies: These grants address the special and culturally related academic needs of Indian students in public schools, Bureau schools, tribal schools and Indian controlled schools. Funds are available under this program for entitlement grants to LEAs, Bureau schools and certain tribal schools as well as for grants awarded on a competitive basis to Indian controlled schools and certain LEAs. The formula grant program supports supplemental Indian education programs for planning, developing, establishing, maintaining and operating programs, minor remodeling and pilot projects. They may also be used for training of counselors in the treatment of alcohol and substance abuse. The amount of the award is determined by a formula based on the number of Indian children enrolled in the applicant's schools and to whom it provides a free education, and multiplied by the average State per pupil expenditure per LEA.

Indian-Controlled Enrichment Program; this is a competitive discretionary grant program for Indian tribes, organizations and certain LEA's that operate, or plan to establish and operate, a school for Indian children located on or geographically near a reservation. Up to 10 percent of the appropriations under Subpart 1 are set aside for this program for grantees to develop and establish supplemental educational enrichment programs.

Subpart 2 -- Special Programs: The Planning, Pilot, and Demonstration (PPD) Program is a competitive discretionary grant program that funds projects to plan for, test, and demonstrate the effectiveness of educational approaches that improve the educational opportunities for Indian students at the elementary and secondary levels. Awards are made to state education agencies (SEA's), LEA's, Indian tribes, organizations and institutions, and Federally supported elementary and secondary schools for Indian children. An average of 16 projects are funded a year.

Educational Services Program is a competitive discretionary grant program that funds SEA's, LEA's, and Indian tribes, organizations and institutions to develop and establish educational services that improve opportunities for Indian children and for enrichment projects. Grants are also awarded for programs that encourage students to acquire a higher education and to reduce incidence of dropouts among Indian elementary and high school students. Such awards are made to consortia of LEA's, Indian tribes or organizations, and institutions of higher education.

Educational Personnel Development Program; consists of two components of competitive discretionary grants. One provides funding to prepare persons to serve Indian students as teachers, administrators, teacher aides, social workers, and ancillary educational personnel, and to improve the qualifications of persons serving Indian students in these capacities. Such awards are made to IHE's and to State and local education agencies in combination with IHE's. An average of 7 projects are awarded each year.

The other component provides funding to prepare individuals specifically to teach or administer special programs designed to meet the special educational needs of Indian people, and to provide in-service training for person teaching in such programs. Grants are also awarded to IHE's, Indian organizations and Indian tribes with priority given to Indian institutions and organizations. An average of 7 projects are awarded each year.

Indian Fellowship Program; provides fellowships to Indian U.S. citizens who are full-time undergraduate or graduate students at an accredited IHE. Eligible fields of studies are (1) graduate programs leading to a degree in medicine, psychology, clinical psychology, law, education, or a related field and (2) undergraduate or graduate programs leading to a degree in engineering, business administration, natural resources or a related field. OIE awards an average of 125 fellowships per year at an appropriation level of approximately \$1.6 million.

Indian Gifted and Talented Pilot Program; was conducted in fiscal year 1990 under a 14-month contract to Turtle Mountain Community College. The purpose of the pilot program was to develop a definition for the Indian gifted and talented; to identify appropriate assessment measures, and to identify existing resources for culturally appropriate curriculum materials.

Indian Education Technical Assistance Centers (IETACS); contracts are awarded on a competitive basis for operation of 6 regional technical assistance centers. The IETACS disseminate information, provide training and technical assistance to grantees in program planning, development, management and evaluation. Contracts are awarded for a term not exceeding 3 years.

Subpart 3 -- Adult Education: Educational Services Program; is a competitive discretionary grant program for Indian tribes, organizations and institutions to support programs that improve educational opportunities for adult Indians. OIE funds an average of 32 adult education grants a year at an appropriation level of approximately \$4.2 million. Awards range from \$28,000 to \$307,000.

IMPACT AID

DESCRIPTION: Public Law 81-874, Impact Aid, was enacted forty-two years ago to provide assistance to school districts which experienced an adverse financial effect due to federal activity or presence. This impact was usually caused by:

- A. federal ownership of non-taxable land or
- B. the burden of providing an equal education to a district's "federally-connected" children.

Although originally enacted to serve the children of military personnel, Congress recognized that similar burdens are imposed on school districts educating other types of children. In 1958, children living on Indian lands were included in the definition of "federally-connected child," as were children living in federally subsidized low-rent housing projects in 1970.

Local education agencies (LEAs) that claim entitlement based on the number of children residing on Indian lands must involve tribal officials and parents of Indian children residing on Indian lands in the education program. Tribal organizations and parents of Indian children residing on Indian lands have specific responsibilities to LEAs funded under the Impact Aid Program. An LEA that receives the entitlement is not required to spend the entitlement exclusively for Indian children or for special programs for Indian children.

PROGRAM ELIGIBILITY REQUIREMENTS: A local education agency may apply for funding for all children who reside on Indian lands. There is no requirement as to place of employment.

APPLICATION PROCESS: In order to apply for impact aid funds, a local educational agency must complete the U.S. Department of Education application form #4019. To provide school districts with a resource regarding this application process, the National Association of Federally Impacted Schools (NAFIS) has sample forms. Additional information can be obtained by writing the:

U.S. Department of Education
Director, Impact Aid Program
400 Maryland Avenue, SW
Washington, DC SW 20202-6244
(202) 401-2379

IMPACT AID

DESCRIPTION:

Public Law 81-815 was enacted in 1950 and authorized payments for the federal share of urgently needed classrooms and classroom equipment and the construction of other school facilities to accommodate the:

1. sudden increases in enrollments caused by federal activities in the community and
2. lost local revenues resulting from the non-taxable federal property. Public Law 815 was made up of two titles.

Title I was created to assist states in several ways. First, in the examination of existing facilities. Second, to develop plans for school construction programs and lastly to see whether or not state and local government contributions were going to be adequate enough for the construction of those facilities. Title II allotted funds for the construction of school facilities on federal property.

PROGRAM ELIGIBILITY:

Section 3 of the Act sets out a process whereby the Secretary shall establish a priority list for projects based on relative urgency of need. Section 4 establishes the amount of federal aid which cannot exceed the actual construction cost. Section 5 contains the formula upon which the amount of 815 dollars will be determined.

APPLICATION PROCESS: § 6 of the Act spells out the application process. School districts applying for funds must submit applications through appropriate State agency. For additional information, you may contact:

U.S. Department of Education
Director, Impact Aid Program
400 Maryland Avenue, SW
Washington, DC SW 20202-6244
(202) 401-2379

***E. POST SECONDARY EDUCATION -
OIEP ADMINISTERED***

HASKELL INDIAN JUNIOR COLLEGE

DESCRIPTION:

Haskell Indian Junior College (HIJC), located in Lawrence, KS, has operated as a junior college since 1970. The HIJC is operated by the Bureau and provides an academic and residential program for American Indian and Alaska Native students. Haskell is fully accredited by the North Central Association of Colleges and Schools and offers programs in three degrees: Associate of Arts; Associate of Sciences; and Associate of Applied Sciences. The Associate of Arts and Associate of Sciences Degree programs provide the basic college course work needed by students who intend to transfer to four-year colleges. The Associate of Applied Science Degree program is primarily designed to prepare students for immediate employment. In addition, HIJC will begin to offer classes toward a baccalaureate degree in elementary education.

PROGRAM ELIGIBILITY REQUIREMENTS:

Individuals wishing to enroll must be a member of a federally recognized tribe or one-fourth degree Indian of a Federally recognized Tribe; and must have graduated from an accredited high school or have completed a GED.

MEASURABLE OBJECTIVES:

To annually provide an academic, recreational and residential program to approximately 900 students.

To have approximately 32% of the graduates continue their education

To have approximately 64% of the graduates enter the work force following graduation.

APPLICATION PROCESS:

Individuals interested in applying for admusion must contact:

Office of Admissions and Records
155 Indian Avenue
Haskell Indian Junior College
Lawrence, KS 66046
(913) 749-8454

SOUTHWESTERN INDIAN POLYTECHNIC INSTITUTE

DESCRIPTION:

The Southwestern Indian Polytechnical Institute (SIPI), located in Albuquerque, NM, opened in 1971 to provide Indian students with post-secondary educational programs in vocational and technical fields. Fully accredited by the North Central Association of Colleges and Schools, SIPI provides instruction in a variety of careers to approximately 600 students.

The industrial training programs include architectural and electronic drafting, surveying, electronics, graphic arts, offset printing and optical technology. The business department offers training in secretarial and clerical skills, accounting, data processing, marketing, and distribution. The food preparation program may specialize in institutional cooking, chef's training or fast food preparation. Over 90% of the students graduating from the optical technology program are placed in jobs with national firms.

PROGRAM ELIGIBILITY REQUIREMENTS:

The student must be a member of, or is at least a one-fourth degree Indian blood descendent of a member of an Indian tribe which is eligible for the special programs and services provided by the Bureau of Indian Affairs.

MEASURABLE OBJECTIVES:

To annually provide post-secondary educational programs in vocational and technical fields to approximately 525 students.

To graduate approximately 65 students each year.

To place 74% of the graduates in jobs or in four-year colleges and universities.

APPLICATION PROCESS:

Eligible Indian students must complete a SIPI student enrollment application. Forms may be obtained from SIPI or the student's home agency.

HIGHER EDUCATION GRANT PROGRAM

DESCRIPTION:

The Higher Education Grant Program provides financial aid to eligible American Indians and Alaska Native students to attend accredited post-secondary institutions which will enable them to meet their educational goals, develop leadership abilities, and increase their employment opportunities in professional fields so that they may contribute to the economic and social goals and objectives of the various tribes. The program funds some 14,200 undergraduate students.

PROGRAM ELIGIBILITY REQUIREMENTS:

The program provides for grants to American Indians/Alaska Native students, or Aleut students who are members of a tribe which is federally recognized, or who meet other acceptable criteria for funding, and who are admitted for enrollment in an accredited college or university program leading primarily to a baccalaureate degree. A Certificate of Degree of Indian Blood or other proof of Indian blood certified by the tribal enrollment office must be a part of the student's application.

MEASURABLE OBJECTIVES: To provide financial aid to eligible Indian students to enable them to attend accredited institutions of Higher education.

APPLICATION PROCESS: Students wanting to apply must:

1. Obtain a grant application from the Area/Agency or tribal office that has service responsibility for their tribal group.
2. Contact the financial aid officer of the institution chosen for study who can advise on aid programs available and the cost of attending. High school students should talk to their guidance counselor and librarian to obtain financial aid general information and where to find help.
3. Mail documents (Grant Application, grades or transcripts, college form, financial aid packet with annual budget, school admission applications) to the appropriate BIA Agency or Tribal Office. Deadlines for BIA/Tribal Application are: April 1 for the Fall term; October 15 for second semester or second & third quarters; April 15 for Summer School.

SPECIAL HIGHER ED. GRANT PROGRAM (GRADUATE)

DESCRIPTION:

The Special Higher Education Grant Program provides funds to Indian students to pursue a graduate degree. Priority for funding is given to those students who are enrolled in Business, Education, Engineering, Law, Natural Resources, or Health Fields of study. The funding for this program is included as a line item in the Bureau's budget with the funding level fluctuating between \$ 1.8 to 2.3 million annually. Four hundred twenty-five students (425) were funded during this academic year, an increase of thirty-one (31) students over the previous year. This program is contracted by the American Indian Graduate Center, Albuquerque, New Mexico.

PROGRAM ELIGIBILITY REQUIREMENTS:

Student eligibility requirements are the same as for the Higher Education Grant Program.

Students must apply and gain admission to an accredited college or university graduate school program.

MEASURABLE OBJECTIVES:

- Enhance the cultural and economic well-being of American Indians and Alaska Natives by providing graduate education grants and services to approximately 400 students annually.

APPLICATION PROCESS:

Requests for information on AIGC fellowships should be sent to:

**AMERICAN INDIAN GRADUATE CENTER
4520 MONTGOMERY BLVD. NE, SUITE 1-B
ALBUQUERQUE, NEW MEXICO 87109**

SUMMER PRE-LAW PROGRAM

DESCRIPTION:

The Pre-Law Summer Institute (PLSI) provides funding for Indian students who have been accepted to an accredited law school to participate in a summer institute which will prepare them for the first year of law school. This program is contracted with and held by the University of New Mexico Law Center.

PROGRAM ELIGIBILITY REQUIREMENTS:

In order to be considered eligible for the 1993 Pre-Law Summer Institute (PLSI), applicants will be required to submit a complete eligibility package which must include:

1. A fully-completed PLSI application form
2. Proof of membership in a federally recognized tribe
3. LSDAS report which includes the LSAT score and percentile ranking
4. Undergraduate transcript indicating date of graduation and degree conferred
5. Proof of application to one or more ABA-accredited law schools
6. Two letters of application
7. Personal statement of the applicant's reason for desiring to study law

MEASURABLE OBJECTIVES:

- To prepare a maximum of twenty-eight (28) potential American Indian and Alaska Native law students for the rigors of law school with an emphasis on the development of the skills necessary for law school including study, legal research, and legal writing skills.

APPLICATION PROCESS:

Application forms will be provided to all applicants who request them in addition to directly mailing them to all potential law students who indicate American Indian or Alaska Native on their LSAT application form. Requests must be sent to:

**PRE-LAW SUMMER INSTITUTE
AMERICAN INDIAN LAW CENTER, INC.
P.O. BOX 4456 - STATION A
ALBUQUERQUE, NEW MEXICO 87196**

ADULT EDUCATION

DESCRIPTION:

The Adult Education program provides educational opportunities and learning experiences to enable adult American Indian and Alaska Natives to complete high school graduation requirements, acquire basic literacy skills and gain new skills and knowledge to improve their functioning as individuals and as members of the community.

Typical of the courses offered are: Adult Basic Education (ABE); preparation for the General Educational Development Test (GED); life-coping skills courses such as budgeting, filling out applications, drivers' training, and consumer awareness; instructional information services from federal, state and tribal programs (e.g., Medicare, Social Security, federal/state tax returns, entitlements, real estate and trust services; continuing education courses designed to update the knowledge and skills of the participants (e.g., typing, shorthand, computer literacy); and community education classes of personal interest. This education program also encompasses special programs for the elderly.

Program staff conduct needs assessment surveys, recruit participants, teach some of the courses, provide guidance and counseling with regard to educational, career, and employment opportunities, and coordinate the OIEP adult education program with other existing federal and non-federal programs and activities. Overall, the program is intended to help develop occupational and related skills for Indian adults to enable them to become more employable.

PROGRAM ELIGIBILITY REQUIREMENTS: Most Adult Education funds are contracted through P.L. 93-638. The funds are to be used for on or near reservation members of federally recognized tribes.

MEASURABLE OBJECTIVES: To annually provide adult education classes for some 12,500 students who reside on the various reservations nation-wide by upgrading job skills.

APPLICATION PROCESS: Contractor develops a written Plan to include 1) a compilation of needs assessment data; 2) prioritized program needs; 3) objectives; 4) activities to accomplish objectives; and 5) evaluation methods. Contractor submits the Plan through appropriate program official to the Contracting Officer.

TRIBALLY CONTROLLED COMMUNITY COLLEGES

DESCRIPTION:

The legislation which established funding for the tribally controlled community colleges was the Tribally Controlled Community College Act (Public Law 95-471) which was enacted in 1978. The Navajo Community College Act which existed prior to the TCCC Act played a major role in the passage of P.L. 95-471. The only concession that Navajo Community College asked for was that the intent of the Navajo Community College Act be preserved. For this reason there are two (2) titles (I&II) under the TCCC Act. Title I pertains to all colleges except Navajo Community College and Title II pertains solely to NCC. The Act provides operational, endowment and technical assistance funding under both titles.

PROGRAM ELIGIBILITY REQUIREMENTS:

To be eligible a college must: have been in existence for more than a year, and have students a majority of whom are Indian; be governed by a board of directors, a majority of whom are Indian; demonstrate its adherence to stated goals, a philosophy, or a plan of operation, which is directed to meet the needs of Indians, and have received a positive eligibility study determination.

MEASURABLE OBJECTIVES:

- Provide funds for academic and administrative purposes
- Provide funds for the operation and maintenance of the colleges and universities
- Enable sponsoring tribes to pursue educational goals which are compatible with the needs of their people

APPLICATION PROCESS:

A college will be eligible to receive a grant only after receiving a positive eligibility study. Submission of a resolution or other duly authorized request from the governing body of one or more Indian tribes is necessary to initiate a study. Factors to be considered are: financial eligibility based on potential enrollment; evidence of low tribal levels of tribal matriculation in and graduation from postsecondary educational institutions; tribal, linguistics, or cultural differences; isolation; presence of alternate education sources; proposed curriculum; and the benefits of continued and expanded educational opportunities for Indian students.

F. OFFICE OF INDIAN SERVICES -- BIA ADMINISTERED

GENERAL ASSISTANCE PROGRAM

DESCRIPTION:

General Assistance (GA) is an income maintenance (welfare) program to assist in meeting costs for the basic needs of food, clothing, shelter and utilities. Payment levels can be no greater than the state Aid to Families with Dependent Children (AFDC) standard in the state where the Indian recipient resides.

ELIGIBILITY:

Recipients must be Indian; reside on a reservation or in an officially designated near reservation service area; be in financial need as defined in 25 CFR 20; and be available for employment. By statute, individuals who are not available for employment because they are enrolled at least half time in a course of higher education or vocational training may receive GA if they were active GA recipients for no fewer than three months prior to beginning their higher education or training.

OBJECTIVE:

To ensure that needy Indian people who are not eligible for any other public assistance program (such as AFDC and SSI) receive financial assistance to meet basic or essential living needs.

APPLICATION: GA may be applied for through BIA-administered programs at the agency level, or through tribally contracted programs. BIA does not provide GA in states where GA is provided on reservation by states, counties or municipalities.

G. INDIAN HEALTH SERVICES

SCHOOL-BASED PROGRAMS

DESCRIPTION:

Schools attended by American Indian and Alaska Native children are important focal points of the Indian Health Service (IHS), and for the Alcohol and Other Drug Abuse (AODA) prevention strategies involving teachers, teacher aides, students, parents and counselors. Student and parent school-based groups formed as a result of AODA prevention programs include Students Against Drunk Driving, Chemical People, Mothers Against Drunk Driving and peer counseling groups.

They combine traditional counseling with cultural support, Alcoholics Anonymous and Narcotics Anonymous groups, recreational and/or therapeutic activities, and family support. Each center works closely with its community in planning for admission, discharge and aftercare.

ALCOHOLISM AND SUBSTANCE ABUSE PROGRAM

DESCRIPTION:

The IHS has identified alcohol and substance abuse as the most significant health problem affecting American Indian and Alaska Native communities. In addition to the cultural and social devastation it causes, alcohol contributes to a number of physical disabilities treated by IHS which drain medical care resources. In response, the IHS has initiated a number of programs to provide treatment and prevention services. It is widely believed that few Indian families remain unaffected either directly or indirectly by family members' or friends' abuse of alcohol. Current data indicates that 4 of the top 10 causes of death among Indians are alcohol-related: accidents, cirrhosis of the liver, suicide, and homicide.

Presently, the IHS is funding over 200 American Indian and Alaska Native alcoholism programs serving Indian reservations and urban communities. Together with other Federal entities, tribal communities and leadership, IHS is developing an effective and permanent alcoholism/substance abuse prevention program. Although alcoholism is a grave issue, Indian people are demonstrating their resolve to address the issue of alcohol abuse in their communities.

The Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 authorized IHS to develop one youth regional treatment center within each IHS Area. These centers are major resources for youth in need of treatment of alcoholism and other substance abuse.

HEALTH EDUCATION PROGRAM

DESCRIPTION:

The goal of the IHS Health Education Program is to assist American Indian and Alaska Native people to adopt health-promoting lifestyles; to select and use health care resources, products, and services wisely; to influence policy and planning on health care issues and larger environmental matters that affect health; and to involve other agencies that have the potential to improve health. The program is designed to help the Indian community better understand the nature of disease and how lifestyles and behaviors can reduce diseases and injuries. These goals are attained through community service, school health services, patient and staff support services, and tribal health program development. Other activities are provided by American Indian tribes and Alaska Native corporations through contracts with the IHS.

MATERNAL AND CHILD HEALTH

DESCRIPTION:

The family is recognized as the traditional and most important basic social unit in American Indian and Alaska Native communities. The IHS is very sensitive to the communities' family-oriented cultural beliefs and practices.

The IHS approach is to promote family-centered care in all IHS facilities providing maternal and child health (MCH) services. Public Law 100-713 mandates that by 1994 the IHS is to reduce infant and maternal mortality to levels not to exceed national U.S. all-races levels and to reduce Fetal Alcohol Syndrome to an incidence of one per 1,000 births (national general rate is 2 per 1,000). The high rates of infant morbidity and post-neonatal mortality are being met with an emphasis on early and adequate prenatal care for all pregnant women and continued post-partum care and well-child care. Pre- and post-natal health education activities that assist the mother

to develop good parenting skills are also provided during well-child and acute care visits to help parents better understand normal growth and development and to recognize and manage common childhood illnesses. Creative and collaborative MCH programs meet the unique health needs of American Indian and Alaska Native children and their families. Particular emphasis is focused on partnership efforts with tribal health organizations to provide accessible and acceptable MCH services to women of childbearing age and to infants and children. High teen pregnancy rates and mortality due to accidents are special challenges to IHS. Also, the complex needs of abused and neglected children demand increasing interagency cooperation under IHS MCH leadership.

In addition, MCH programs include comprehensive family planning services to protect the health of women and to promote a happy and healthy family environment, and programs for early detection of cervical and breast cancer.

ENVIRONMENTAL HEALTH AND ENGINEERING SERVICES

DESCRIPTION:

Environmental health services are a critical part of IHS's preventive care program, addressing the conditions in American Indian and Alaska Native homes and communities that contribute to high morbidity and mortality. The environment, which includes the home, community, and workplace, as well as the natural surroundings, is recognized as a vital factor in a person's overall health and well-being.

Activities include environmental planning, food protection, occupational health and safety, injury prevention, pollution control, control of insects and other transmitters of pathogens, and institutional environmental health in reservation areas. Staff members include environmental engineers, sanitarians, environmental health and engineering technicians, and injury-prevention specialists. Typically, environmental health program activities include the following: (1) identifying and recommending remedies for the causes of injury; (2) evaluating changing environmental conditions and subsequent planning with tribal officials for the development of comprehensive environmental health programs; (3) investigating communicable disease outbreaks and initiating corrective environmental health control measures; (4) providing technical assistance and training to communities in the operation and maintenance of water supply and waste disposal facilities; (5) evaluating institutional facilities to

make recommendations to the operators so that they may maintain healthful environments; (6) coordinating with the Environmental Protection Agency in such environmental health activities as training, special studies, emergency response, grants to tribes, and technical assistance in the administration of tribal sanitation facilities; (7) assisting tribes in the development and adoption of sanitary ordinances and codes; and (8) alleviating crowded, substandard housing, unsafe water supplies and inadequate waste disposal facilities.

Since 1959, IHS has initiated over 4,000 projects to provide sanitation facilities for American Indian and Alaska Native homes and communities. Upon completion of all these projects, 166,000 Indian residences (104,000 new or improved houses and 62,000 existing ones) will have received running water and a means for safe waste disposal. Much of this work has been done under cooperative agreements with the BIA, the Department of Housing and Urban Development, Indian housing authorities and tribes. Other IHS projects in the specialized service are include engineering surveys, emergency facilities construction, and technical assistance and training for tribal employees and individual homeowners in the use, care and maintenance of these facilities. Indian tribes have participated by contributing labor, materials and funds.

CONTRACT HEALTH SERVICES

DESCRIPTION:

Besides the direct health services provided within IHS facilities, IHS also purchases Contract Health Services (CHS) from the private sector, such as in a physician's office or in a private hospital. CHS funds help pay for care when other sources of funding are not available, or supplements other alternate resources (such as private health insurance). In general, the CHS program may pay for physician and other health professional services, inpatient and outpatient hospital services, patient and escort travel, and other health care support services.

However, IHS funds may not be available to pay for all CHS referrals. American Indian and Alaska Natives are generally referred for CHS by the IHS physician, except when extreme emergency treatment is required. Referrals for CHS are based on a system of medical care priorities, and are available for only those patients who meet eligibility requirements for participation in CHS.

PREVENTIVE HEALTH SERVICES

DESCRIPTION:

Preventive services are designed to improve American and Alaska Native health and reduce the need for acute medical care. These services include prenatal, postnatal and well-baby care, family planning, dental health, nutrition, immunizations, environmental health activities and health education. These services are provided by clinical staff at IHS and tribal facilities and by community health personnel working directly with the Indian community. Among the programs in the integrated approach to preventive care are community health nursing, dental health, mental health, medical social work, environmental health and health education.

NUTRITION PROGRAM

DESCRIPTION:

Nutritional factors contribute to some of the leading causes of death of American Indians and Alaska Natives--heart disease, cancer, cirrhosis, and diabetes add to the prevalence of obesity, hypertension and dental problems. At greatest nutritional risk are infants, preschool children, adolescents, pregnant and lactating women, and the chronically ill. Nutritional care is an integral part of health service delivery. IHS integrates its nutrition program into all preventive, therapeutic and rehabilitative programs. IHS also conducts nutrition services research and coordinates with other social, educational and food-assistance programs to ensure nutritional services are consistent with the cultural needs of American Indian and Alaska Native communities.

IHS places emphasis on incorporating nutrition education into every available health, social and education service and food assistance program.

MENTAL HEALTH PROGRAM

DESCRIPTION:

Throughout our nation's history, American Indian and Alaska Natives have experienced ever-increasing conflicts between their traditional cultures and the demands of modern society. This struggle has contributed greatly to increase the suicide rate, which is two to three times that of the rest of U.S. society. Alcoholism,

violence, homicide and family distress are all side effects of the frustration, depression, low self-esteem and feeling of hopelessness prevalent in many Indian communities.

The IHS mental health program incorporates two important efforts--first, to understand Indian people and their way of life, ideas and language; and, second, to encourage the active involvement of Indian people in their program.

The IHS and tribal mental health programs are actively involved in providing culturally relevant care for persons and families experiencing emotional distress. Most person are treated as outpatients. Inpatient services are arranged by contract. Prevention programs include working with communities to build mentally healthy environments and combat individual self-destructive behaviors. As additional resources become available, the mental health program intends to intensify its child-family-community treatment and prevention programs by working closely with other disciplines, improving recruitment and retention of mental health treatment staff, and increasing mental health training and research.

DENTAL PROGRAM

DESCRIPTION:

Dental disease is more prevalent among American Indians and Alaska Natives than among the U.S. population as a whole. The IHS dental program places priority on providing preventive and corrective dental care to prevent disease and reduce tooth loss. It has evolved from an emergency care program staffed by itinerant dentists into an interdisciplinary community-oriented program carried out in more than 250 locations within IHS and tribal hospitals, health centers and other fixed facilities as well as at almost 200 field locations and in 24 mobile dental sites throughout the United States. In isolated areas of Alaska, IHS dental teams with portable equipment often travel by aircraft or boat.

Effective cavity prevention measures, such as water fluoridation are encouraged. IHS dental health staff work closely with IHS environmental health personnel and tribal workers to ensure that fluoridation equipment is installed in Indian community water supplies.

PHARMACY SERVICES

DESCRIPTION:

Comprehensive and patient-oriented pharmacy services are provided at both IHS and tribally operated facilities. Pharmacists work closely with other health care providers in the selection, use and dosage of medications and in some instances, provide primary care to outpatients. Patient consultation programs developed in the IHS are used throughout the profession.

Computers are used in many pharmacy functions. Drug information and therapeutic drug monitoring services are provided in both inpatient and outpatient settings. Inpatient services include the preparation of intravenous additives, unit dose, pharmacokinetic and other clinical services. American Indians and Alaska Natives receive on-the-job pharmacy technician training to provide inpatient and outpatient assistance and also to serve as interpreters as needed. IHS pharmacists also train local high school students and serve as preceptors for pharmacy students and residents.

CONSULTATION ITEM # 2

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CONSULTATION ITEM/TOPIC:

Tribal Consultation Dates for 1994.

POTENTIAL ISSUE OR CHANGE:

Scheduling of Tribal Consultation Dates for 1994.

REASON FOR PROPOSING ISSUE OR CHANGE:

To notify tribes of the Proposed 1994 Consultation Dates.

CURRENT OPTION(S) BEING CONSIDERED BY THE BUREAU:

To Schedule Tribal Consultation Dates for 1994 in March and October.

BACKGROUND

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§ 1130 of P.L. 95-561, The Education Amendments of 1978, as amended, states:

"It shall be the policy of the Secretary and the Bureau in carrying out the functions of the Bureau, to facilitate Indian control of Indian affairs in all matters relating to education. All actions under this Act shall be done with active consultation with Tribes. The consultation required means a process involving the open discussion and joint deliberation of all options with respect to potential issues or changes between the Bureau and all interested parties. During such discussions and joint deliberations, interested parties (including, but not limited to, Tribes and school officials) shall be given an opportunity to present issues including proposals regarding changes in current practices or programs which will be considered for future action by the Bureau."

The purpose of regional consultation meetings is to provide Indian Country information regarding education issues and/or proposals being considered by the Bureau. The discussions that take place in these meetings provide the Bureau with valuable tribal input for the disposition of those consultation items. Such systematic and periodic regional consultation meetings across Indian Country were formally initiated in 1991 to implement § 1130 of P.L. 95-561, as amended.

ITEM DISCUSSION

The current proposal is being made in response to several recommendations received from Tribes, School Boards, Parents and Federal/Public School employees in 1992 and 1993. It is hoped that the proposed change in meeting months will alleviate some of the current conflicts that have been encountered with such things that include Inauguration of Tribal officials, seasonal economic endeavors, school summer vacation and inclement weather during January.

- QUESTIONS:**
1. How does Indian Country view the proposed months of March and October to hold 1994 Tribal Consultation meetings?
 2. What kind of changes or modifications could be made to the current BIA Tribal Consultation process/format to improve effectiveness?

CONSULTATION ITEM # 3

CONSULTATION ITEM/TOPIC:

Inclusion of Indian School Equalization Program (ISEP) and Tribally Controlled Community College (TCCC) funds in the Self-Governance Compacts of tribes participating in the Self-Governance Demonstration Project.

POTENTIAL ISSUE OR CHANGE:

If the inclusions are approved by Congress, funds for elementary and secondary schools and the TCCCs within the jurisdiction of those tribes which are part of the Self-Governance Demonstration Project will be included in Compact Agreements of those Tribes.

REASON FOR PROPOSING ISSUE OR CHANGE:

Public Law 102-184, §309 required the Secretary of the Interior to study the feasibility of including ISEP and TCCC funds in the Compacts of tribes included in the Demonstration Project.

CURRENT OPTION(S) BEING CONSIDERED BY THE BUREAU:

To determine whether or not to recommend inclusion of funding for those elementary and secondary schools and TCCCs in the Compacts of those tribes who are included in the Self-Governance Demonstration Project.

The Congress will make the final decision to include or not include the respective ISEP and TCCC funds in this project.

BACKGROUND

=====

Title III – Tribal Self-Governance Demonstration Project of Public Law 100-472 of 1988, as amended, authorized the Secretary of the Interior (Secretary) to conduct a five year demonstration project with selected tribes to plan, conduct, consolidate, and administer programs, services and functions administered and funded through the Bureau of Indian Affairs. Program funds included in compact agreements are given to tribes as a lump sum. Tribes may spend these funds according to their priorities.

This legislation specifically excluded funds appropriated for the Tribally Controlled Community College Assistance Act (P.L. 95-471, as amended) and the Indian School Equalization Formula for elementary and secondary schools pursuant to Title XI of the Education Amendments of 1978 (PL 95-561, as amended).

Currently, appropriated ISEP funds are distributed each year by the OIEP to the elementary and secondary schools according to a formula based on a school's eligible student count. If the school is a contract or grant school, the appropriated funds go directly to the tribe or tribally authorized school board.

The Tribally Controlled Community College Assistance Act, as amended, provides grants directly to TCCCs. Tribes themselves are not eligible recipients.

Public Law 102-184 of 1992, §309, required that the Secretary conduct a study for the purpose of determining the feasibility of including ISEP and TCCC funds in the demonstration projects. This legislation requires the Secretary to report the study results, together with recommendations to Congress.

There are eighteen tribes participating in the self-governance project. Five of the eighteen have educational programs which are funded by the ISEP. All five tribes operate grant schools and one of the five tribes has also chartered a Tribally Controlled Community College (TCCC). For a listing of these schools/tribes, see Appendix A of Exhibit 3-A. (Exhibit 3-A is a DRAFT of the Feasibility Study)

- QUESTIONS:**
- 1. Does Indian Country agree or disagree with the inclusion of the ISEP and TCCC funds in Compact Agreements of those Tribes participating in the Self-Governance Demonstration Project?**
 - 2. Does Indian Country have comments on the DRAFT feasibility study (Exhibit 3-A) required by Congress?**

EXHIBIT 3 - A

DRAFT

**THE SELF-GOVERNANCE DEMONSTRATION PROJECT, THE INDIAN SCHOOL
EQUALIZATION PROGRAM AND THE TRIBALLY CONTROLLED COMMUNITY COLLEGES**

FEASIBILITY STUDY

**A Joint Study Conducted By
The Bureau of Indian Affairs**

**Office of Self-Governance
and
Office of Indian Education Programs**

November, 1992

TABLE OF CONTENTS

I. STATEMENT OF FEASIBILITY.....	1
II. HISTORICAL BACKGROUND.....	1
III. OVERVIEW OF SELF-GOVERNANCE.....	3
IV. ISSUES AND OPTIONS FOR INCLUDING ISEP AND TCCC FUNDS IN THE COMPACT AGREEMENTS.....	4
Part 1. INDIAN SCHOOL EQUALIZATION PROGRAM (ISEP)	4-7
A. REALLOCATION OF ISEP FUNDS.....	4
B. SUPPLEMENTAL PROGRAMS AND COMPETITIVE FUNDS	5
C. ACCOUNTABILITY.....	5
D. EDUCATION MANAGEMENT FUNCTIONS.....	7
Part 2. TRIBALLY CONTROLLED COMMUNITY COLLEGES (TCCC).....	8-11
A. ELIGIBILITY FOR TCCC GRANTS.....	8
B. REALLOCATION OF TCCC FUNDS.....	9
C. ENDOWMENT PROGRAM.....	10
D. ACCOUNTABILITY.....	10
E. EDUCATION MANAGEMENT FUNCTIONS	11
V. SUMMARY.....	11

APPENDIX

- A. LIST OF SELF-GOVERNANCE TRIBES AND THEIR RESPECTIVE SCHOOLS
- B. LIST OF FIVE SELF-GOVERNANCE TRIBES WHICH ARE TARGET GROUP FOR
FEASIBILITY STUDY AND FY 1992 FUNDING OF EDUCATION PROGRAMS
- C. LIST OF SUPPLEMENTAL PROGRAMS

DRAFT

**THE SELF-GOVERNANCE DEMONSTRATION PROJECT, THE INDIAN SCHOOL
EQUALIZATION PROGRAM AND THE TRIBALLY CONTROLLED COMMUNITY COLLEGES
FEASIBILITY STUDY**

I. STATEMENT OF FEASIBILITY

Public Law 102-184, Section 309, requires the Secretary of the Interior to conduct a study for the purpose of determining the feasibility of including in the demonstration project those programs and activities excluded under section 303 (a)(3). These programs include the Tribally Controlled Community College Assistance Act (P.L. 95-471 as amended) and the Indian School Equalization Formula for elementary and secondary schools pursuant to Title XI of the Education Amendments of 1978 (P.L. 95-561 as amended). The Secretary shall report the results of such study, together with his recommendations to the Congress within the 12-month period following the date of the enactment of the Tribal Self-Governance Demonstration Project.

Currently there are sixteen tribes participating in the self-governance project. Five of the sixteen tribes have educational programs which are funded by the Indian School Equalization Program (ISEP). All five tribes operate grant schools and one of these five tribes has also chartered a tribally controlled community college (TCCC). (SEE APPENDIX A)

This feasibility study will involve those tribes currently participating in the demonstration project. The study is not necessarily intended to determine the feasibility of including these programs in a permanent self-governance program but to determine the feasibility of including ISEP and TCCC into current compact agreements during the demonstration phase of the project. This study will address questions specifically related to including the BIA funded schools within the jurisdiction of the tribes participating in the self-governance project and others which may enter the project and the tribally controlled community colleges within the jurisdiction of the tribes participating in the self-governance project.

In addressing this subject, the study will also develop questions to be considered on issues that address broader concerns with the view of identifying the potential including ISEP and TCCC programs in a permanent form of the self-governance program.

II. HISTORICAL BACKGROUND

The initial exclusion of Bureau of Indian Affairs (BIA) funded

school programs from the Self-Governance Demonstration Project was probably related to the passage of the Tribally Controlled Schools Act (part of P.L. 100-297) in April of 1988, close to the same time as Title III was enacted. Six months later, in October, the Indian Self-Determination and Educational Assistance Act amendments (P.L. 100-472) which included Title III, the Self-Governance Demonstration Project, was enacted.

The Tribally Controlled Schools Act of 1988 provided for a new grant process where tribes or tribally authorized school boards could receive grants to operate the schools which they had previously contracted to operate under P.L. 93-638 as amended, or which were BIA operated. The Act provided a great deal of flexibility for school management within reduced but very specific guidelines. Grant renewal is automatic based on continued accreditation of the school under certain options provided in the statute and other minimal reporting requirements. Funding is based on the same formula that funds BIA operated and P.L. 93-638 contracted schools.

Under the Tribally Controlled Schools Act, the Department of the Interior was given very specific functions and the Secretary was precluded from issuing regulations which dealt with "the details of planning, development, implementing, and evaluating grants...." The Act was openly critical of the Bureau's administration and "domination" of the contracting process under PL 93-638. The Act stated the Bureau "has denied to the Indian people an effective voice in the planning and implementation of programs for the benefit of Indians which are responsive to the needs of Indian communities."

The philosophical basis for the Tribally Controlled Schools Act and the Self-Governance Demonstration Project are thus quite similar. School grants can be said to have done for tribes with schools what the Self-Governance Demonstration Project is doing with the rest of the BIA programs for the tribes in the project. In both cases, the net result is to limit BIA influence with tribal operation of programs while increasing the tribes' authority to plan and develop programs to meet their own priorities.

The key difference between the two Acts is the approach. The Tribally Controlled Schools Act deals very specifically with one program while Title III provides an overall framework but does not deal with any specific program. The Tribally Controlled Schools Act specifically limits what the BIA can do while providing grantees with a great deal of authority limited only by a few specific requirements. Title III establishes baseline measures reporting requirements to be jointly developed by the tribe and the BIA but provides a great deal of discretion to the Department on the details of implementation.

The Tribally Controlled Schools Act provides a specific option to

tribes that fits into the overall BIA Education System. It was developed in close consultation with the tribes, school boards, and the school administrations that operate BIA funded schools. It is specifically interwoven with P.L. 93-638, as amended, as well as the provisions of P.L. 95-561, as amended, which forms the basis of the BIA Education System. Title III specifies certain policy and program parameters and leaves the bulk of the policy and demonstration program development to the Department and the tribes involved. The Tribally Controlled Schools Act is available to every entity that operates a BIA funded school, while Title III is limited to 30 tribes in the demonstration phase.

The Tribally Controlled Schools Act empowers whatever entity is operating the school. In cases where the tribe is the grantee, the power is vested in the tribe; however, in cases where a school board is operating a school under P.L. 93-638, the continuing role of the tribe is sharply limited. The school board itself can elect to come under the grant system and periodic reauthorization by the tribe required of 638 contractors no longer applies to a Grant school board. In short, the Tribally Controlled Schools Act establishes an option wherein the key policy and procedural questions about the system are already answered, while Title III establishes a framework and a directive to establish an option for tribes whereby they can more fully control the federal resources which are identified for them.

No other BIA program has as extensive a statutory framework as the education program. To have included BIA funded schools in self-governance agreements during the original enactment of Title III might have had little or no effect since the extensive statutory base would have still applied. The existing regulations primarily govern the operations of BIA operated schools.

III. OVERVIEW OF SELF-GOVERNANCE

Recently completed Annual Funding Agreements for FY 1993 will begin the third year of operations for the first tier tribes. Through the process of negotiations, these tribes are developing base amounts of funds which are then reprogrammed into a single line item in the BIA budget. This base funding is to include not just those program funds which the tribe may have historically received through P.L. 93-638 contracting, but also its "share" of BIA administrative funds at the agency, area, and central office levels. The BIA is directed to restructure wherever possible to provide the full share to the tribes. When this is impossible due to the possibility of adverse impact on the other tribes served in that jurisdiction, the Bureau applies to the Office of Self-Governance for shortfall funding. In this process the Bureau retains a portion of the identified funds and the balance of the tribal "share" of funds is provided to the tribes through the use of shortfall funding. The amount of the share provided through

shortfall is expected to decline over a period of time as the BIA restructures to absorb the impact of the program.

Tribes are authorized to reallocate funds and redesign programs in order to better meet their own priorities. In practice, however, there are certain limits on this authority that are related to the nature of the programs operated by the Bureau. Some programs, for example, are competitive. If the tribe were to successfully compete for such programs and then could do something else with the money, it would defeat the integrity of the competition. Such funding is therefore "earmarked" and must be spent for the purpose it was intended. Ways to provide the tribes with a pro-rata share of such programs and then eliminating them from the competition are being explored. This will be an area for consideration as the possibility of including education programs in the self-governance project is studied.

Other funding which is tied directly to an authorizing statute or a specific designation of the Congress are also specifically "earmarked" and must be accounted for separately. Such statutes would apply until the Congress specifically waives or amends them. Furthermore, the applicable BIA regulations remain in effect until waived by the Secretary at the request of the tribe. Tribes, of course, would need to provide their own procedures or rules as a substitute. Such waivers are generally agreed to unless the rules have a statutory base.

IV. ISSUES AND OPTIONS

Throughout the course of determining the feasibility of including ISEP and TCCC into the compact agreements, certain issues have emerged which have generated a number of possible options to resolve the critical areas of funding, accountability, and education management functions. This section will present these issues and possible options for tribes and other interested parties to consider.

PART 1. INDIAN SCHOOL EQUALIZATION PROGRAM (ISEP).

A. REALLOCATION OF ISEP FUNDS

Basically there are two options:

1. Include ISEP funds in self-governance agreements in cases where the grantee is the tribe, but identify the school program as one which is specially "earmarked." All the statutory requirements would apply.
2. Use the ISEP formula to establish a base amount for funds to be transferred from the BIA to the tribe, but allow the tribe the option to reallocate ISEP funds to tribal programs outside of the "earmarked" educational intent.

DRAFT

Several considerations would have to be addressed under option two. There are specific statutory requirements regarding ISEP that would require amendment to permit tribes the option of reallocating ISEP funds. The conditions for this could be added to Title III of the 1988 Amendments of the Indian Self-Determination and Education Assistance Act (Public Law 100-472) which would also amend Title XI of the Education Amendments of 1978 (Public Law 95-561, as amended).

B. SUPPLEMENTAL PROGRAMS AND COMPETITIVE FUNDS

There may be an issue regarding the handling of supplemental educational programs, whose source is another federal agency. (see Appendix 3) Presently, the Bureau has Memoranda of Agreement with the U.S. Department of Education for the majority of these supplemental programs. Under option 2, there would be problems related to the MOAs and the categorical and supplemental nature of these programs if there is no mechanism to ensure that these funds are spent for the purpose intended.

Another issue regards competitive "earmarked" funds; i.e., America 2000, Gifted and Talented, new school construction, facility renovation projects and other discretionary funds that are available through the BIA system. Questions arise concerning what process would need to be established to assure a fair share or distribution of these funds. Who would be held accountable for applying and reporting results? These problems are similar to those in competitive and discretionary OIP programs.

C. ACCOUNTABILITY

There are concerns about accountability in three general areas: fiscal aspects, eligibility aspects, and educational and dormitory standards.

1. Fiscal Aspects

Audits. The audit requirements for grant schools and for the self-governance project is different. Grant schools must provide an annual financial statement and provide a bi-annual audit. The self-governance tribes must provide for an annual audit.

To resolve this difference, current grant schools could simply accept an annual audit requirement under the compact agreement.

Payments. Grant schools receive two payments: on October 1 and on January 1. The Self-Governance payment time frame is not clearly established. This system for payment to the schools could be left intact for educational programs and might in fact be utilized for

all funds incorporated in the self-governance agreement.

2. Eligibility Aspects

Determining eligibility and verifying the student count and other factors related to weighted student units under the Indian School Equalization Formula (ISEP) would probably need to be accomplished annually. There would probably be no change in this process since it is painstakingly established in statute. Verification procedures of OIEP would probably remain in effect during the demonstration project.

Supplemental programs often require specific eligibility documentation. The schools could continue the same process of collecting the documentation as they currently utilize under the grant process; however, special requirements for providing funding and monitoring would still apply and would need to be carried out by the responsible officials.

3. Education and Dormitory Standards

Under PL 95-561, the BIA was mandated to develop educational and dormitory standards for its school system. The statute also provided a waiver process for tribes in cases where a tribe felt that "such standards are deemed ... to be inappropriate or ill-conceived." [P.L. 95-561 as amended, Section 1121 (d)]

The Tribally Controlled Schools Act provides five options for standards for schools:

1. State or regional accreditation
2. A determination by the Secretary that a school can reasonably be expected to be accredited by the state or a regional accrediting agency within three years.
3. Tribal accreditation, but only if that accreditation is accepted by a generally recognized regional or state accrediting agency.
4. BIA standards compliance as determined by an impartial evaluator chosen by the school itself.
5. Standards adopted by the school prior to April of 1988 while it was still operating under a PL 93-638 contract and based upon a positive evaluation performed once every three years by an impartial evaluator agreed upon by the Secretary and the grantee.

Since all the schools involved are currently operating under the Tribally Controlled Schools Act, each of them will be operating under one of these options. Self-governance agreements could

identify the particular standard adopted by the tribe and tribes could report on their compliance with the standards through the baseline measure reporting process.

The particular approach could be negotiated with the tribe with BIA education officials participating in the Self-Governance compact negotiations. A method for dealing with school program accountability in the permanent program could be dealt with in accordance with overall accountability processes developed for the permanent program.

D. EDUCATION MANAGEMENT FUNCTIONS

There are two education management areas which need to be addressed: administrative cost grants, and education consultation requirements.

1. Administrative Cost Grants

Administrative costs for schools operated under both P.L. 93-638 contracts and P.L. 100-297 grants are not determined by indirect cost procedures like other BIA programs. Instead, a statutory formula is used to determine the amount; however, for multi-program contractors, the indirect cost differential will probably be paid to the school program. This matter is currently being researched by the Solicitor's Office and an opinion is expected soon.

The administrative cost formula was to have been based on studies that were to have been contracted by October of 1989 to a "nationally reputable public accounting and business consulting firm." No study was ever conducted and the amounts continue to be based on an interim formula which is specified in the statute. Since this process is statutory, the amounts generated under the formula would still apply to self-governance tribes along with the specific purposes for which they can be spent. There should be no problem with including these amounts in self-governance agreements.

2. Education Consultation Requirements

The consultation process, spelled out in the statute for all activities under the Education Amendments Act (P.L. 95-561, section 1130), calls for a rigorous process of open discussions and joint deliberations with all interested parties on all potential issues or changes which involve the BIA education system. The inclusion of school funding in self-governance agreements would be subject to this requirement. "Interested parties" under this statute has not been limited to those that are actually involved with the specific program. To include ISEP funding in self-governance might dramatically increase the number of persons and entities which would be involved in the tribal consultation process under self-

governance. Such involvement would extend beyond the scope of the education programs and into the self-governance project as a whole unless an exception is provided for the Demonstration Project.

PART 2. TRIBALLY CONTROLLED COMMUNITY COLLEGE (TCCC).

The Tribally Controlled Community College Assistance Act of 1978 was enacted on October 17, 1978 as Public Law 95-471 (SEE APPENDIX B). The purpose of the Act has been to provide grants for the operation and improvement of tribally controlled community colleges to insure continued and expended educational opportunities for Indian students, and to allow for the improvement and expansion of the physical resources of such institutions (Title I, Section 101).

A. ELIGIBILITY OF TCCC GRANTS

Tribes themselves are not eligible to be recipients of TCCC grants. The statute specifies that a recipient must be the institution of higher education itself with a governing board of directors or board of trustees, a majority of which are Indian (Title I, Section 103. (3)). TCCC inclusion in the self-governance project becomes contingent on the tribes becoming eligible for TCCC grants. This change requires a statutory amendment.

Only one tribally controlled community college, Northwest Indian College, could conceivably become a part of a compact agreement currently. Another, located at Sisseton, would also be a possibility at the point when the Sisseton-Wahpeton Sioux Tribe enters a Self-Governance Agreement. The Northwest Indian College is a tribally-controlled institution chartered by the Lummi Indian Business Council. The Charter provides for a five-member board of trustees as the governing board for the college. Each trustee is an enrolled member of a participating tribe and appointed by the Lummi Indian Business Council.

The role of tribes under the TCCC Act is that of requesting an eligibility study to determine if a college can be established as a TCCC. However, the definition section assumes a broader role, that of formally controlling, sanctioning, or chartering the institution itself. It would appear that a tribal governing body by legislation can establish itself as the recipient of TCCC grants by also serving as the governing body of the college, though this would be unusual and is not provided for specifically by the statute. This, however, would be further complicated in multi-tribal situations.

Since most TCCCs are multi-tribal in their service population, the question of how to deal with consent from other tribes would need to be dealt with.

In the event that legislation addressing the eligibility of Self-Governance tribes to receive funds directly is dealt with and

tribes under self-governance become eligible, other issues, such as those listed below, would need to be addressed.

B. REALLOCATION OF TCCC FUNDS

DRAFT

Basically there are two options:

1. Include TCCC grant funds in the self-governance agreements through enactment of new legislation that permits it, but continues to identify the program as one which is specially "earmarked." Because these funds are "earmarked" for specific TCCC purposes, all other statutory requirements would still apply.

2. Enact new legislation which would continue to use the Indian Student Count (ISC) as defined in Section 2. (a) (7) to establish an amount of grant funds to be transferred from the BIA to the tribe, but would allow the tribe the option to reallocate ISC funds to tribal programs outside of the "earmarked" TCCC intent.

If option one is the favored choice, it seems that the tribe might play an increasing role in terms of operations and oversight of the TCCC as the actual grantee. The funding would probably be funnelled through the tribe to the Board of Regents which would then have to answer to the tribe.

With option 2, there are specific statutory requirements regarding TCCCs that would need to be amended. The conditions under which this could occur would need to be added to Title III of the 1988 Amendments of the Indian Self-Determination and Education Assistance Act (Public Law 100-472) which would also amend Title I of the Tribally Controlled Community College Assistance Act of 1978 (Public Law 95-471, as amended).

Under Section 102 of Title I, grants are made by the Secretary of the Interior to defray expenditures for academic, educational, and administrative purposes and for the operation and maintenance of the college.

The funds appropriated for this Act are appropriated for specific purposes related to TCCC's. This includes any funds from interest or investments accrued on any funds provided under this Act (Title I. Section 108). The funds accrued from interest or investments shall be the property of the TCCC (Title I. Section 108 (3)(A)).

Grant amounts are determined annually for each TCCC in an amount equal to the product of the Indian student count during the preceding academic year and \$5,820 [per student], except that no grant shall exceed the total annual cost of the education program provided by such college (Section 108). In the case of Northwest Indian College, students that take courses are from several of the local tribes, none of which have a TCCC. The present method of

determining the Indian Student Count would probably remain in effect under a self-governance agreement during the demonstration project.

C. ENDOWMENT PROGRAM

A Tribally Controlled Community College must enter into an agreement with the Secretary before a grant to establish an endowment fund can be made. The agreement must include: the establishment and maintenance of a trust fund at a federally insured bank or savings institution which provides for the deposit in the fund of any Federal capital contribution made of funds appropriated under section 306, a capital contribution by the TCCC in the amount or value equal to half of the amount of each Federal capital contribution, and any earnings of the funds so deposited. Also, the deposit must not accumulate interest at a rate less than similar funds deposited at the same bank or savings institution during the same period. The agreement also states that if the TCCC withdraws any capital contribution made by the college, an amount of Federal capital contribution equal to twice the amount or value of each withdrawal, shall be withdrawn and returned to the Secretary for reallocation to other TCCCs. Also, the net earnings can not benefit any private person. Finally, for financial protection the agreement must include a description of recordkeeping procedures for the expenditure of accumulated interest which will allow the Secretary to audit and monitor programs and activities conducted with such interest (Title III, Section 301).

However, the interest deposited can be withdrawn for specific purpose without penalty. "Section 303. Interest deposited, pursuant to section 302 (b)(2)(C), into the trust fund of any TCCC may be periodically withdrawn and used, at the discretion of such college, to defray any expenses associated with the operation of such college, including expense of operations and maintenance, administration, academic and support personnel, community and student services programs, and technical assistance."

These provisions would all continue to apply under a self-governance agreement unless specifically amended.

D. ACCOUNTABILITY

Fiscal Aspects - Audit and Payments

Grants are made in response to applications by tribally controlled community colleges. Such application must include a description of recordkeeping procedures for the expenditure of funds received under this Act which will allow the Secretary to audit and monitor programs conducted with such funds. A favorable eligibility study must have been completed.

DRAFT

Audits. Each TCCC receiving payments under this title must annually provide to the Secretary an accurate and detailed accounting of its operating and maintenance expenses and such other information concerning costs as the Secretary may request (Section 108 (c)).

The audit requirements for self-governance tribes call for an annual audit. This requirement then is quite similar. The TCCC could establish baseline measurements in an agreement with the Secretary which related to the self-governance requirement for reports based upon such measurements.

Payments. TCCCs are to receive not less than 95 percent of the funds available for allotment by October 15 or no later than 14 days after appropriations become available, with a payment equal to the remainder of any grant to which a grantee is entitled to be made no later than January 1 of each fiscal year (Section 108(b)(1)).

Since the provision for determining the payment amount is determined by statute, it would not be possible for this funding to become part of the tribal base absent an amendment to do so. Since there is no formal method for payment under self-governance at this time, these procedures would need to be reconciled between the two programs.

Any interest or investment income that accrues on any funds provided under this title shall be the property of the TCCC, but must be expended by the TCCC by no later than the close of the fiscal year succeeding the fiscal year in which such interest or investment income accrues (Section 108 (3)). Self-Governance has not yet dealt with the issue of accrued interest.

There would appear to be no problem with incorporating the two foregoing items into self-governance agreements.

E. EDUCATIONAL MANAGEMENT FUNCTIONS

There are not extensive statutory requirements regarding personnel and administrative aspects. Under the present law, the board of directors is responsible for the overall operation.

V. SUMMARY

The purpose of this study is to determine the feasibility of including in the Self-Governance Demonstration Project the elementary and secondary programs (ISEP) and tribally controlled community college program. The study is not necessarily intended to determine the feasibility of including these programs in a permanent self-governance program, but to determine the feasibility of including these programs in the current compact agreements during the demonstration phase of the project.

There are currently 16 tribes involved in the demonstration project of which 5 operate Bureau funded grant schools. Only one of the 16 compact tribes and one of the planning tribes are associated with TCCCs.

ISEP - The philosophical basis for the Tribally Controlled Schools Act and the Self-Governance Demonstration Project are quite similar. School grants can be said to have done for tribes with schools what the Self-Governance Demonstration Project is doing with the rest of the BIA programs for the tribes in the project. In both cases, the net result is to limit BIA interference or influence with tribal operation of programs while increasing the tribes' authority to plan and develop programs to meet their own priorities.

TCCCs - Tribes themselves are not eligible to be recipients of TCCC grants which specify that a recipient must be the institution of higher education itself with a governing board of directors or board of trustees, a majority of which are Indian. Thus, TCCC inclusion in the self-governance project seems to be contingent on the tribes becoming eligible for TCCC grants. This change would require a statutory amendment.

Due to the very specific statutory requirements derived from the legislation and the subsequent amendments for both the ISEP and the TCCC programs, the current options for placing these programs in tribal compacts are limited. In fact, no other BIA program has as extensive a statutory framework as the education program.

There are also similar issues related to including the supplemental and competitive education programs funded through MOAs with other federal departments. In most if not all cases, such programs are categorical for meeting certain specific needs of students and to receive the funds, various requirements must be met. In the short term, changes to allow flexibility in these programs would probably not be possible since other federal departments as well as Congressional committees would be involved.

There are several questions concerning roles and responsibilities which must be addressed if the compact process is to be expanded to include the two programs. Since the administrative funding will be decreased from each administrative unit, would this relieve OIEP from the responsibility of dealing with the compact tribes and TCCCs? How would the BIA deal with the schools contracted or granted to an Indian organization? Would the tribe have the option of adding ISEP or TCCC funds to its compact against the wishes of an existing board of directors?

Finally, it appears that the primary avenue to accomplish this process is by appropriate amendments to current legislation. Parts

1 and 2 of Section IV of this document detail some of these options.

APPENDIX A

PARTICIPATING TRIBES IN THE SELF-GOVERNANCE DEMONSTRATION PROJECT WITH BUREAU FUNDED SCHOOLS OR TRIBALLY CONTROLLED COMMUNITY COLLEGES

1. Mille Lacs Chippewa Tribe, Minnesota
MINNEAPOLIS AREA
Nay-Ah-Shing School, Grades 7-12
FY 92 Enrollment 50 students
Grant GD
2. Lummi Indian Tribe, Washington
PORTLAND AREA
Lummi Tribal School, Grades K-12 /K-8
FY 92 Enrollment 162 students
Grant GD
- **** Northwest Indian College
3. Cherokee Nation of Oklahoma, Oklahoma
OKLAHOMA EDUCATION OFFICE
Sequoyah High School, Grades 9-12
FY 92 Enrollment 211 (156) students
Grant GO (Grant Off-Reservation Boarding School)
4. Quinault Indian Nation, Washington
PORTLAND AREA
Wah-He-Lut School, Grades K-8 / PRE-K-8
FY 92 Enrollment 47 students
Grant GD
5. Duckwater Shoshone Tribe, Nevada
SACRAMENTO AREA
Duckwater Shoshone School, Grades K-8
FY 92 Enrollment 20 students
Grant GD

APPENDIX C

BUREAU OF INDIAN AFFAIRS OFFICE OF INDIAN EDUCATION PROGRAMS

Supplemental Programs

The Office of Indian Education Programs (OIEP) receives funds for, and/or administers the following supplemental elementary and secondary school programs.

- Early Childhood - Bureau of Indian Affairs, ISEP
- Chapter 1 - U.S. Department of Education
- Exceptional Children - U.S. Department of Education
- Gifted and Talented - Bureau of Indian Affairs, ISEP
- Alcohol and Other
Substance Abuse,
Prevention,
Education, and
Training
 - U.S. Department of Education
 - Bureau of Indian Affairs, ISEP
- Bilingual Education - U.S. Department of Education
- USDA Breakfast and
Lunch Programs - U.S. Department of Agriculture
- Title V Indian
Education Act
Programs - U.S. Department of Education
- Dwight D. Eisenhower
Math and Science
Education Act - U.S. Department of Education

CONSULTATION ITEM # 4

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CONSULTATION ITEM/TOPIC:

The Indian School Equalization Program (ISEP) Formula.

POTENTIAL ISSUE OR CHANGE:

Exploration of alternative funding distribution mechanisms and improved accountability measures.

REASON FOR PROPOSING ISSUE OR CHANGE:

March, 1993 request from the US Senate Committee on Appropriations to study the ISEP formula.

CURRENT OPTION(S) BEING CONSIDERED BY THE BUREAU:

To design and implement a study which would (1) examine the current ISEP funding situation at the school level, (2) explore alternative funding distribution mechanisms to be used in providing school operation funds to all BIA funded schools and (3) explore improved accountability measures at the school level.

BACKGROUND

=====

On March 12, 1993, Senator Robert C. Byrd, Chairman of the Interior and Related Agencies Appropriation Subcommittee, United States Senate notified the Secretary of the Interior (see Exhibit 4-A) that the committee was very concerned about the current methodology used for estimating and distributing funding for School Operations using the Indian School Equalization Program (ISEP) formula. The ISEP formula appears in the 25 CFR 39. In the view of the Committee, the formula does not allocate educational resources effectively and, as a result, the quality of Bureau-funded education is being compromised. The Department was requested to (1) closely examine the funding situation at the schools and (2) explore alternative funding distribution mechanisms and improved accountability measures.

The letter from the Senate appropriations committee in March, 1993 appears to be a follow up to interest expressed in House Report No. 102-626 (see Exhibit 4-B) which accompanied the Bureau's FY 1993 Appropriation Act and which stated "The committee is aware of the recommendation of the blue-ribbon panel which examined the ISEP formula, to increase the formula amount to \$3,499. Unfortunately, the committee was not able to provide the increase that would have been needed to meet this recommendation this fiscal year, but expects the Bureau to include funding to achieve this recommendation in future budget requests."

The Bureau is preparing to work with the Congress to identify a funding distribution methodology which will more effectively allocate and manage resources. As the Bureau begins its preparations for a study of the ISEP formula, the Bureau is seeking input from Indian country regarding the design, implementation and evaluation of its study and in reporting its findings to the Congress.

QUESTIONS:

1. How does Indian Country think the Bureau should "examine" the current ISEP funding situation at BIA funded schools?
2. What kind of "alternative funding distribution mechanisms" does Indian country think would work effectively for BIA funded schools?
3. What factors does Indian country think the BIA should consider in designing and implementing its study?

QUESTIONS (Cont):

- 4. In order to improve accountability measures so that allocated funds are properly managed, what procedures or processes could be improved or initiated at the school level? at the national level?**
- 5. Does Indian country agree with the suggestion that the current ISEP formula does not allocate educational resources effectively?**
- 6. How could school operation funds be allocated in a manner that more closely matches funding with identified needs at the school level?**
- 7. Does Indian country think a distribution of ISEP funds should be based on a straight ADM count?**

EXHIBIT 4 - A

ROBERT C. BYRD, WEST VIRGINIA, CHAIRMAN

DANIEL E. INOUE, HAWAII
CHRIST P. MOLLATH, SOUTH CAROLINA
J. BENNETT JOHNSON, LOUISIANA
QUINTON M. BURDICK, NORTH DAKOTA
PATRICK J. LEAHY, VERMONT
JIM BASSER, TENNESSEE
DENNIS WICKENHILL, ARIZONA
DALE BUMPERS, ARKANSAS
FRANK R. LAUTENBERG, NEW JERSEY
TOM HARKINS, IOWA
BARBARA A. MIKULSKI, MARYLAND
HARRY REID, NEVADA
BRUCE ADAMS, WASHINGTON
WYCHE POWELL, JR., GEORGIA
J. ROBERT KIRNEY, NEBRASKA

MAAR G. KATYIELD, OREGON
TED STEVEN, ALASKA
JACK GARN, UTAH
THAD COCHRAN, MISSISSIPPI
ADRIAN V. KASTEN, JR., WISCONSIN
ALFONSO M. D'AMATO, NEW YORK
WARREN RUSSMAN, NEW HAMPSHIRE
AARON SPICER, PENNSYLVANIA
PETE V. DOMENICK, NEW MEXICO
DON NICKLES, OKLAHOMA
PHIL GRAMM, TEXAS
CHRISTOPHER S. BOND, MISSOURI
BLAKE GORTON, WASHINGTON

United States Senate

COMMITTEE ON APPROPRIATIONS

WASHINGTON, DC 20510-8028

JAMES H. ENGLISH, STAFF DIRECTOR
J. KEITH KENNEDY, MINORITY STAFF DIRECTOR

March 12, 1993

Honorable Bruce Babbitt
Secretary
U.S. Department of the Interior
Washington, D.C. 20240

Dear Mr. Secretary:

A letter dated February 4, 1993, signed by the Assistant Secretary for Policy, Management, and Budget, requested approval for reprogramming \$8,786,000 from Indian Child Welfare Act Grants (ICWA) to School Operations. The funds are to supplement the estimated cost of the 1992-1993 school year within the Operations of Indian Programs account of the Bureau of Indian Affairs.

The Committee understands that these funds are requested as a result of unanticipated increases in student enrollment and an increase in the number of students enrolled in special programs for which additional funding is received through the Indian School Equalization Program (ISEP) formula. The Committee also understands that these funds are necessary in order to avert school closings, personnel layoffs, and reduced programs at Bureau-funded schools.

The Committee is very concerned about the current methodology for estimating and distributing funding for School Operations using the ISEP formula. The Committee is concerned that the formula does not allocate educational resources effectively and, as a result, the quality of Bureau-funded education is being compromised. While some schools are adequately funded, other schools face serious shortfalls under the current distribution method. Given the current budget situation, it is essential that BIA education funds be allocated in a manner that more closely matches funding with identified needs and that allocated funds be properly managed.

The Department should closely examine the funding situation at the schools and explore alternative funding distribution mechanisms and improved accountability measures. As part of the ISEP formula reauthorization this year, the Committee encourages the Department to work closely with the Congress to devise a funding distribution methodology which will more effectively allocate and manage resources.

Honorable Bruce Babbitt
March 12, 1993
Page 2

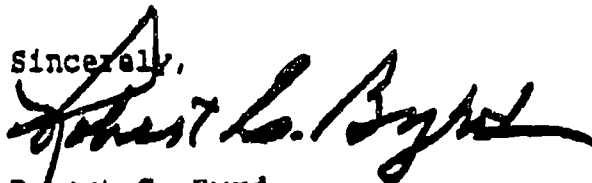
Subsequent to the submission of the proposed reprogramming, funds for this same purpose have been included in the economic stimulus package proposed by the President. Because of the timing of the anticipated enactment of the FY 1993 Supplemental, it is the Committee's understanding that it is necessary to transfer funds now in order to avert the shutdown of several schools within the next few weeks.

Therefore, the Committee concurs with the transfer of up to \$8,786,000 from the ICWA program to School Operations. However, the Committee expects the Department to transfer only emergency funds which are necessary to avert the shutdown of individual schools. No funds should be reprogrammed to provide for an across-the-board increase in the weighted student unit calculation. Other urgent funding requirements which have been identified previously should be addressed once the FY 1993 Supplemental is enacted.

In order to restore the ICWA grants to the FY 1993 enacted level, it is the Committee's understanding that any funds which may be transferred from the ICWA grants will be replenished by funds provided for School Operations in the FY 1993 Supplemental. It is the Committee's intent that funds be replenished in the same manner that they were transferred to cover the shortfalls in School Operations.

With the above understanding and based on the information provided, the Committee has no objections to the proposed reprogramming.

Sincerely,



Robert C. Byrd
Chairman
Interior and Related
Agencies Subcommittee

EXHIBIT 4 - B

DEPARTMENT OF THE INTERIOR AND RELATED
AGENCIES APPROPRIATIONS BILL, 1993

JUNE 29, 1992.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. YATES, from the Committee on Appropriations,
submitted the following

REPORT

[To accompany H.R. 5503]

The Committee on Appropriations submits the following report
in explanation of the accompanying bill making appropriations for
the Department of the Interior and Related Agencies for the fiscal
year ending September 30, 1993. The bill provides regular annual
appropriations for the Department of the Interior (except the
Bureau of Reclamation) and for other related agencies, including
the Forest Service, the Department of Energy, the Indian Health
Service, the Smithsonian Institution, and the National Foundation
on the Arts and the Humanities.

CONTENTS

	Page Bill	Page Report
Department of the Interior:		
Bureau of Land Management.....	2	6
U.S. Fish and Wildlife Service	13	14
National Park Service.....	17	23
U.S. Geological Survey.....	23	37
Minerals Management Service.....	25	40
Bureau of Mines.....	27	43
Office of Surface Mining Reclamation and Enforcement	28	45
Bureau of Indian Affairs	31	48
Territorial and International Affairs.....	38	59
Departmental Offices	42	63
General Provisions.....	44	66
Related Agencies:		
Forest Service, USDA	50	67

56-826

plement such programs with their welfare assistance funds, and the Committee hopes many tribes will use this flexibility to initiate or continue EARN-type programs, which have had good results to date in moving individuals from the welfare assistance program to paid employment.

Under education, the Committee recommends an increase of \$11,150,000. Included is an increase of \$8,400,000 for ISEP formula funds, which is the amount needed to provide the 1991 level of funding per weighted student unit (approximately \$2,830). This increase is necessary because the Bureau understated the estimate of weighted student units to be funded in fiscal year 1993, and later provided a corrected, higher figure. Without the funding increase, the amount provided per WSU would decline below the 1991 level.

The Committee is aware of the recommendation of the blue-ribbon panel which examined the ISEP formula, to increase the formula amount to \$3,499. Unfortunately, the Committee was not able to provide the increase that would have been needed to meet this recommendation this fiscal year, but expects the Bureau to include funding to achieve this recommendation in future budget requests.

Under education, there are also increases of \$1,000,000 for facilities operations and maintenance (schools), \$1,100,000 for Title I tribally controlled colleges, \$450,000 for Navajo Community College, and \$1,000,000 for the Johnson-O'Malley program. All of these increases are needed because of increased enrollments. There is a decrease of \$800,000 to the budget request for the PATS/PACE early childhood program, which will leave an increase of \$2,585,000 for expanding this program to additional sites. This amount should be adequate to expand to 12 sites as proposed, based on the Bureau's estimate of a little over \$200,000 average cost per site.

For community development, the Committee recommends an increase of \$6,310,000. Included is an increase of \$500,000 for facilities O&M (non-education), \$810,000 for road maintenance and \$5,000,000 for housing improvement, which will restore both of these programs to the 1992 level.

The Committee recommends an increase of \$9,975,000 for resources management, which includes a decrease of \$1,000,000 to irrigation O&M. These funds were provided in fiscal year 1992 for studies of possible reclassification of projects. The Bureau should complete the studies, and determine what reclassifications might take place and what the cost implications are. I provide an estimate of such costs to the Committee. An increase of \$6,777,000 is provided to restore rights protection implementation to the 1992 level, including the following: \$1,500,000 for the timber-fish-wildlife program; \$100,000 for the Northwest Indian Fish Commission; \$200,000 for the Quileute Tribe; \$50,000 for the Suquamish Tribe; \$862,000 for the Columbia River Intertribal Fish Commission, including additional funds for activities related to threatened and endangered salmon species; \$1,473,000 for the Great Lakes Indian Fish and Wildlife Commission, including \$300,000 to increase biological services and conservation enforcement in Minnesota, Wisconsin, and Michigan; \$500,000 for the 1854 Authority, including the Fond du Lac Tribe; \$415,000 for the Chippewa/Ottawa Treaty Fishery Management Authority, including additional funds for conservation enforcement, and restoration of environmental science

EXHIBIT 4-C

MAKING EMERGENCY SUPPLEMENTAL APPROPRIATIONS
FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 1993,
AND FOR OTHER PURPOSES

MARCH 15, 1993.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. NATCHER, from the Committee on Appropriations,
submitted the following

REPORT

together with

ADDITIONAL AND MINORITY VIEWS

[To accompany H.R. 1335]

The Committee on Appropriations submits the following report
in explanation of the accompanying bill making emergency supple-
mental appropriations for the fiscal year ending September 30,
1993, and for other purposes.

INVESTMENT IN AMERICA

This bill makes investments in education and training, infra-
structure, and science and technology to help our Nation's indus-
tries compete in a global economy. It finances additional capital
improvements for highways, airports, mass transit, railroads, and
waterways that enhance the productivity of America's private in-
dustries. It provides additional resources for education and training
programs like summer youth employment, higher education finan-
cial assistance, and elementary and secondary summer school as-
sistance that will enhance the opportunities and skills of future
workers. It accelerates the development and use of science and
technology through enhanced computer development and deploy-
ment, telecommunications network promotion, and engineering
and scientific research. It provides \$4,000,000,000 to extend unem-
ployment benefits to an estimated 1.9 million individuals who have
exhausted regular State unemployment insurance benefits. It

65-731

of its historic properties. In addition, States and Indian tribes will receive \$12,472,000 to fund historic preservation activities. Of this amount, \$1,000,000 is for Indian tribes and Alaskan Native Corporations.

CONSTRUCTION

For National Park Service construction, the Committee recommends a supplemental appropriation of \$83,591,000, as requested. The following table shows the distribution of funds:

Activity	Amount
Employee housing.....	\$10,000,000
Emergency storm damage.....	5,591,000
Road construction.....	50,000,000
Line item construction projects.....	18,000,000
Total.....	83,591,000

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

The Committee recommends an additional appropriation of \$92,044,000, the budget request, for operation of Indian programs. Included within this amount is \$18,497,000 for school operations and \$4,090,000 for administrative cost grants to meet a shortfall in school costs in school year 1992-93. Additional amounts of \$21,503,000 for school operations and \$4,754,000 for administrative cost grants are included for school year 1993-94, which begins July 1, 1993, to continue to cover this shortfall in the next school year. These funds are required because of increases in school enrollments which have led to decreased funding per student, and could lead to layoffs of personnel and possible early closings of Indian schools if the additional funds are not provided.

The Committee is concerned that this shortfall was not reported to the Committee in the quarterly report directed in the Statement of the Managers accompanying the fiscal year 1993 conference report, and repeats the importance of submitting this report in a timely manner in the future. The Committee is also concerned that the Indian School Equalization Formula is not acting as intended when established by law, and is not accurately reflecting the funding needs of individual schools. The Committee expects that the need for new mechanisms to determine funding needs more accurately and to allocate actual appropriations more fairly will be addressed by the authorizing committees when this authorization is reviewed.

In addition to the \$48,844,000 for school operations and administrative cost grants, the additional funds include \$15,000,000 for forest development, \$4,700,000 for facilities operation and maintenance for cleaning and repairs of schools, and \$23,500,000 for road maintenance on Indian reservations. The Committee is concerned that the Department apparently intends to use the program dollars outlined above to cover contract support costs when needed for P.L. 93-638 contracting. This is contrary to the usual practice of providing contract support separately from programmatic funding, and the Committee does not intend this practice to be extended to regu-

lar BIA funding in fiscal year 1993 or in subsequent years. If the amount used for contract support exceeds the reprogramming guideline thresholds, the Committee expects the Department to submit a reprogramming request in accordance with those guidelines.

CONSTRUCTION

The Committee recommends an additional amount of \$10,332,000 the budget request, as adjusted by the Administration, for construction. Of this amount, \$4,696,000 is for facilities improvements and repairs of Indian schools, as well as for law enforcement facilities, landfill closures, and acquisition of portable classrooms. An additional amount of \$5,636,000 is also provided for construction of three juvenile detention facilities, for which design has been completed, and for which construction contracts can be awarded this summer.

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

NATIONAL FOREST SYSTEM

The Committee recommends an additional \$150,000,000, the budget request as adjusted by the Administration, for the national forest system. An adjustment was made in accordance with Administration testimony, that more funds should be made available in this account and fewer funds in construction, than originally proposed. Included within this amount is \$75,000,000 for recreation management, \$25,000,000 for trails maintenance, and \$50,000,000 for facilities maintenance. These funds will be used to reduce the backlog of cyclic maintenance and rehabilitation needs of recreation and administrative facilities and trails in the national forests. Also included is \$30,000,000 for ecosystem restoration, which will be used for rehabilitation of watershed condition and riparian areas, closing roads to reduce sedimentation, revegetation of abandoned mines, restoration of fish and wildlife habitat and protection of threatened and endangered species, range rehabilitation, and treatment of timber stands to improve health and fuel loading. Since these activities cut across traditional budget line items, the Committee is concerned that the Forest Service establish effective internal oversight over the use of these funds, and requests that a monthly report on the allocation and use of the funds in the field be submitted to the Committee. A final report should be submitted as soon as possible after the end of the fiscal year detailing the uses of these funds, and accomplishments achieved with them.

CONSTRUCTION

The Committee recommends an additional \$37,844,000, the budget request as adjusted by the Administration, for construction, which includes \$19,844,000 for recreation facilities, \$8,000,000 for fire, administrative and other facilities, \$3,000,000 for research facilities, and \$7,000,000 for trails. The Committee expects that these funds will not be used to initiate construction of new facilities, and

APPENDIX

STATUS REPORTS OF ITEMS PREVIOUSLY CONSULTED ON



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Washington, D.C. 20240



IN REPLY REFER TO

Education
PO&E 533

05 APR 1993

Memorandum

To: All Education Line Officers
All Division Chiefs, Office of Indian Education
Programs
Regional Tribal Consultation Teams

From: Director, Office of Indian Education Programs *John W. Typpelmann*

Subject: Status Report on January 1993 Tribal Consultation Item
Number 1 - The concept of expanding the current author-
ities provided under P.L. 100-297, Tribally Controlled
School Grants.

The purpose of this report is to provide feedback to all interested parties concerning what action(s) this office has taken on this particular consultation item since the consultation meetings in January. Each education line officer is to provide a copy of this update to each tribe and school within his/her jurisdiction.

The consultation item posed the following question: Does Indian country support amendments to PL 100-297, the Tribally Controlled Schools Act of 1988, which would expand the programs eligible for grants under the Act to include Johnson-O'Malley (JOM), higher education scholarships and/or adult education programs? The results of the consultation meeting are summarized below.

There were a total of 179 comments made at eleven locations across Indian country and 40 comments were submitted in writing to the Office of Indian Education Programs (OIEP) after the consultation meetings were held.

Comments include the following: support the increased flexibility allowed by the grant process; there is a need for increased funding to support grant process; there was confusion over the following phrase in the booklet "(1) No more than one grant..."; and whether the change will make grant competitive among tribes; grant process will solve problems with allocation of funds; establish a separate line item for adult education; there was a question as to how grants will work for multiple tribe situations; grant process will hurt tribes in multiple tribe situations; would like to see the good features of grant process and contracting combined; do not

allow state and public school districts to be able to contract or receive grants for JOM funds; tribes should administer all JOM programs; would this affect the dollar amount per student; would this affect indirect cost; would this apply to all tribes and all Alaska Native groups/schools; need more information/clarification of proposal; would interest earned affect non-profit status; will the Bureau of Indian Affairs (BIA) have capability to provide technical assistance in preparing and implementing grants; proposed grants seem to undermine 638 self-determination; what remedies are available other than grants; amend 93-638 not 100-297 as this will give more tribal control; retain language authorizing interest bearing accounts.

There were many questions as to the details and impact of providing a grant option to tribes. Overall, comments were in support of this proposal provided that a process similar to the current grant authority is used, that the authority does not adversely affect or limit the options of any tribe or Alaska Native Group, that multi-tribal situations are dealt with adequately and that states. Some participants did not want public school districts (in the case of JOM) included in the grant process and others wanted them included.

ACTIONS TO BE TAKEN

1. Higher Education Programs - With the passage of PL 102-325, the Higher Education Amendments of 1992, it is now possible for a tribe to obtain a grant from the Bureau by which to administer its own higher education scholarship program. Such grants will be administered by education personnel within agency and area education line offices under the direct supervision of the Director, OIEP. Since a grants process is now available for this program, no legislative proposal will be made to the Congress.

2. Johnson-O'Malley Programs - The consultation item proposed to include JOM programs within the grants issued to tribes for school operations under PL 100-297. Several individuals pointed out that PL 100-297 was written specifically for tribes and that those authorities given to tribes should not be extended to States or public school districts. The Bureau agrees with many commenters in that some type of grant process which is administered by education personnel is needed but PL 100-297 is not the correct mechanism to be amended. Perhaps the original JOM act should be revised to include a grants process which will be administered by education personnel. The Bureau will propose such revisions to the JOM Act to the Congress.

3. Adult Education Program - The Bureau will propose amendment for PL 102-325 to the Congress which specifically addresses a grants process for the Adult Education Program.

If there are any questions regarding this item, please contact James Martin or John Reimer at 202-208-3550 or 3562.



IN REPLY REFER TO

United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Washington, D.C. 20240



Memorandum:

APR 2 1993

To: All Area Directors
All Education Line Officers
All Division Chiefs, Office of Indian
Education Programs
Regional Tribal Consultation Teams
Director, Facilities Management and Construction Center

From: Director, Office of Indian Education Programs
Acting Director, Office of Construction Management

Subject: Status Report on July, 1992, Tribal Consultation Item
Number 2 - Education Space Guidelines

The purpose of this report is to provide feedback to all interested parties concerning what action(s) the Office of Indian Education Programs, Facilities Management and Construction Center, and the Office of Construction Management, has taken or plans to take on this particular consultation item since the consultation meetings in January 1993. Each education line officer is to provide a copy of this update to each Tribe and school within his/her jurisdiction.

Consultation Item #2 - Education Space Guidelines

Purpose of Item #2 - The Bureau of Indian Affairs (BIA) is responsible for providing facilities to support educational programs for eligible Indian children. Existing education space guidelines, issued in May 1980, were outdated, hard to follow, and not specific. A draft of updated education space guidelines was prepared and included in the tribal consultation booklet to facilitate tribal consultation on this item. The proposed draft was to provide space guidelines for schools and dormitories for elementary, junior high and high school education programs.

It is important that guidelines be established and used to ensure that BIA facilities meet the needs of education programs and activities and to ensure that limited appropriated funding resources are applied to the most critical education facilities needs. These guidelines are intended to provide guidance for planning new schools, renovating existing schools, and evaluating the adequacy of existing school facilities.

Comments Made During Consultation - More than 400 individual verbal and/or written comments were made on this item by Indian country during the eleven (11) regional consultation meetings.

The proposed Education Space Guidelines were over 30 pages long. Some of the comments were very specific. For the purpose of summarizing the comments we have prepared the following generalized statements:

Question #1

The first question asked regarding Consultation Item #2 was: Are there areas in the proposed education space guidelines that should provide more flexibility? How should that flexibility be provided and what is the reason more flexibility is needed?

Commentors generally felt that the Education Space Guidelines needed to provide more flexibility. Suggestions as to how the guidelines should provide more flexibility varied. Some commentors stated that space guidelines should be established at the local level to allow more flexibility. Several commentors suggested that tribes be permitted to choose whether to use state or regional accreditation space guidelines rather than the BIA Education Space Guidelines.

One of the reoccurring comments at various regional meetings was to provide more flexibility based on weather conditions in a particular locale. Examples given included providing more space for multi-purpose rooms or gymnasiums in schools and more closet space for winter clothes in dormitories in locales where there was inclement weather during much of the school year.

Several commentors suggested that more flexibility should be provided for dormitories. Based on local choice, small cottage/home-type dormitories should be allowed. Also, the number of students per room should not be set.

Whether it was an issue of flexibility or not, many commentors believed the proposed space guidelines were inadequate with regard to multi-purpose rooms, libraries, gymnasiums, auditoriums and dining rooms. The exclusions of swimming pools was viewed as arbitrary by a few commentors.

Although some commentors did reject the idea of BIA-wide space guidelines in favor of locally developed space guidelines, most seem to accept the need for education space guidelines, but with greater flexibility. Commentors believed the inclusion of maximum allowable space did not provide flexibility. Several commentors suggested that the Education Space Guidelines should establish a minimal amount of space for a particular activity and not a maximum amount. The Education Space Guidelines should not be used to limit the amount of space in a school, but insure that adequate and sufficient space is provided.

Question #2

The second question asked regarding Consultation Item #2 was: Are there education programs and activities that have not been provided for that should be included in the proposed guidelines? If so, what are they and what guidelines should be provided?

Several commentors believed the proposed education space guidelines were inadequate or incomplete because space had not been provided for community or tribal activities. A few commentors pointed to this as showing a lack of understanding of how tribes viewed education. Community or tribal activities should be considered as part of education programs and activities.

Some commentors believed the guidelines were inadequate or did not address space needs for pre-Kindergarten programs and child care and cultural activities. Also, "Special Programs" should not be limited to Chapter I, Family and Child Education (FACE), or Exceptional Child programs. Examples of additional "special programs" that should be included were not given.

Question #3

The third question asked regarding Consultation Item #2 was: Are there space allocations that fail to meet state or regional accreditation standards? If so, what space allocation based on what state or regional accreditation standards?

There were many commentors who believed that most of the space allocations were inadequate. With one exception, commentors did not give a state or regional accreditation standard. One tribe provided extensive comments pointing out several space allocations in the guidelines that did not meet state or regional accreditation standards. The specific state or regional accreditation standard was given.

Question #4

The fourth question asked regarding Consultation Item #2 was: Are there areas or space allocations that should be eliminated from the proposed education space guidelines? If so, why should they be eliminated?

Only one comment was received suggesting the elimination of an area or space. No reason was given for suggesting that the extra space for isolation rooms in dormitories be eliminated.

Future Actions: Because of the requests for additional time in which to review and comment more fully on the proposed Education Space Guidelines, the comment period is being extended. Written

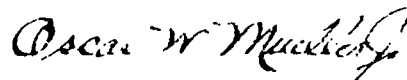
comments may be submitted until July 2, 1993, on the proposed guidelines.

Consideration is still being given to including the Education Space Guidelines in the Bureau of Indian Affairs Manual (BIAM). However, the comments already received show a need for revision. Consideration will be given not only to specific space allocations, but also to incorporating greater flexibility. Many of the comments showed confusion as to how the guidelines would be used. An effort will be made to provide a better explanation of the use of the guidelines.

After review and revision based on the comments received during consultation and any additional written comments received before July 2, a revised draft will be prepared. Towards the end of September 1993, the revised draft will be furnished to all Tribe, BIA-funded schools, Area Directors, Area Education Programs Administrators, Superintendents, and Agency Superintendents for Education. An opportunity will be provided for all interested parties to submit written comments on the revised draft of the proposed Education Space Guidelines.



Director, Office of Indian
Education Programs



Acting Director, Office of
Construction Management



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Washington, D.C. 20240



IN REPLY REFER TO

Exceptional Education
Code 523

09 APR 1993

ORIGINAL

Memorandum

To: All Education Line Officers
All Division Chiefs, Office of Indian Education Programs
Regional Consultation Teams

From: Director, Office of Indian Education Programs *John W. Sweeney*

Subject: Status Report on January 1993 Tribal Consultation Items
Number 3 - Inclusion Policy and Number 4 - Americans with
Disabilities Act

Purpose of this report is to provide feedback to interested parties concerning action(s) this office has taken on these consultation item since the consultation meetings in January. Each Education Line Officer is to provide a copy of this update to each Tribe and school within his/her jurisdiction.

Consultation Item #3 - Full Inclusion of Children with Disabilities in Regular Education.

Purpose of Item #3 - To propose adoption of a BIA policy on including children with disabilities to be educated with non-disabled students rather than exclude them. In addition, it was proposed that requirements be established for ISEP count of children with disabilities served in a "Full Inclusion" Model of Instruction.

Presentation of this item at the Tribal Consultation Meetings reflects at least one of the Resolutions from the White House Conference on Indian Education. Resolution 5-8 is as follows:

Therefore, be it resolve, that proposals related to reform restructuring, and development of alternative educational programs, methods, techniques, and services address the integration of programs and services for American Indian/Alaska Native with Exceptional needs.

At least four schools have expressed an interest in initiating an Inclusion Model of instruction which would be consistent with policies of the state in which the schools are located. The Inclusion Model is also consistent with the requirements of 'free

and appropriate public education' of the Individuals with Disabilities Education Act.

Consultation Meeting Comments

The prevailing theme of the comments was that adoption of an Inclusion Policy should be determined by the school and school board. In addition, the impact on funding was of concern.

Comments and concerns (202) included the following: (a) level of impact on the regular education program, (b) sufficient levels of funding to implement the Inclusion Model, (c) preference to implement the inclusion model as a local option rather than as a requirement, (d) tend to forget needs of child, must consider each child's needs, (e) school supports this, has adopted it already, (f) teachers need training to implement Inclusion model, and preparation of regular students, and (g) overall support for the concept, however a full analysis of the impact on the current budget was absent.

Others perceived the model of 'full inclusion' as follows: (a) an attempt for termination, (b) opposed to certified teacher requirement, (c) Sounds like doing same as Chapter I - School-wide program - No! (d) Overall, sounds good, won't work, and (e) children with disabilities need additional space.

Future Actions

The BIA/OIEP will develop a policy statement on inclusion; adoption of the policy would be at the discretion of the school administrator/school board.

If such a policy is adopted within a school, the Special Education students who are participants in the Inclusion Program will meet ISEP criteria.

Consultation Item No. #4 - Americans with Disabilities Act

Purpose of Item #4 - The purpose in presenting the Americans with Disabilities Act (ADA) was to increase awareness of the rights of persons with disabilities and that individuals with disabilities cannot be discriminated against on the basis of their disability.

Consultation Meeting Comments

Comments on the ADA (58) included these items: (a) why are tribes excluded or why should they be included (in the definitions of employer), (b) need more funds to initiate this, (c) if definitions of employer change, it will infringe on tribal sovereignty, (d) Told tribes could be sued under this law, tribes too? (e) New responsibility - assure there is \$\$ and support - not divide the same pie (f) support concept as my child is handicapped, (g) Must be a tribal decision, and (h) Support legislative change to make ADA applicable to tribes.

Future Actions

The purpose in presenting this item was met - to increase awareness of the rights of persons with disabilities. The Bureau of Indian Affairs, Office of Indian Education Programs has no official position for any changes in the legislation. The OIEP will take no further action on this item.

Additional Information - Any questions regarding these consultation items may be directed to Dr. Marilyn Johnson, at the Branch of Exceptional Education, 1849 C St. N.W.; MS 3530 - MIB, Code 523, Washington, DC 20245. (202) 208-6675 (voice) or (202) 208-2316 (TDD).

LOCAL CONTACTS

Meeting information may be obtained from persons having responsibility for meetings in specified states as follows:

<i>CALIFORNIA</i>	<i>Fayette Babby</i>	<i>916/978-4680</i>
<i>NEW MEXICO</i>	<i>Val Cordova</i>	<i>505/766-3034</i>
	<i>Larry Holman</i>	<i>505/786-6150</i>
<i>MINNESOTA</i>	<i>Betty Walker</i>	<i>612/373-1090</i>
<i>WASHINGTON</i>	<i>Van Peters</i>	<i>503/230-5682</i>
<i>SOUTH DAKOTA</i>	<i>Jim Davis</i>	<i>701/477-6471</i>
<i>OKLAHOMA</i>	<i>Jim Baker</i>	<i>405/945-6051</i>
<i>ALASKA</i>	<i>Robert Pringle</i>	<i>907/271-4115</i>
<i>ARIZONA</i>	<i>Beverly Mestes</i>	<i>602/562-3557</i>
<i>MONTANA</i>	<i>Larry Parker</i>	<i>406/657-6375</i>
<i>TENNESSEE</i>	<i>Lena Mills</i>	<i>703/235-3233</i>

TRIBAL CONSULTATION BOOKLET

**U. S.
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS
OFFICE OF INDIAN EDUCATION PROGRAMS**

October 1993

LEGISLATIVE AUTHORITY

Section 1130 of Public Law 95-561, as amended, states:

"It shall be the policy of the Secretary and the Bureau in carrying out the functions of the Bureau, to facilitate Indian control of Indian affairs in all matters relating to education . . . with active consultation with tribes . . . [by] a process involving the open discussion and joint deliberation of all options with respect to potential issues or changes between the Bureau and all interested parties. . . [and]

During such discussions and joint deliberations, interested parties (including, but not limited to, tribes and school officials) shall be given an opportunity to present issues including proposals regarding changes in current practices or programs which will be considered for future action by the Bureau."

IMPLEMENTATION PROCESS

In 1991, the Bureau of Indian Affairs formally initiated a process intended to fulfill the P. L. 95-561 consultation mandates; and, the Office of Indian Education Programs (OIEP), as a matter of policy, committed to regularly scheduled, twice-a-year consultation meetings across Indian Country. It is intended that the meetings afford Indian tribes, parents, schools and interested parties the opportunity to consider, discuss and propose options for the resolution of issues relating to education programs and to offer alternatives to changes which the Bureau may be considering.

The meetings are planned and conducted by Regional Consultation Teams, each comprised of Tribal Representatives, Area/Agency Education Line Officers and Central Office Education staff; and, are held in eleven (11) locations during January and again in July each year. The results of all consultation meetings are presented to the Director and staff, OIEP, for use in developing recommendations and future planning. The overall Tribal consultation effort is organized and maintained by the Branch of Planning, OIEP.

TRIBAL CONSULTATION

October 1993



PLANNING, OVERSIGHT AND EVALUATION

Branch of Planning

LOCAL CONTACT PERSONS

Consultation meeting information may be obtained from the local contacts listed on the inside back cover.

WRITTEN COMMENTS

Written Comments must be received by November 10, 1993 and, should be mailed or hand delivered to:

*Bureau of Indian Affairs
Office of Indian Education Programs
MS-3512 MIB
1849 C. Street, NW
Washington, D.C. 20240*

Attn: Dr. John Tippeconnic

FOR FURTHER INFORMATION CONTACT

*Dr. John Tippeconnic, Director,
Office of Indian Education Programs
202/208-6123*

*Dr. James Martin, Chief,
Planning, Oversight and Evaluation
202/208-3550*

CONTENTS

<u>Section</u>	<u>Page</u>
Consultation Authority and Process	Front Inside Cover
Tribal Leader/School Board Letter	i
Federal Register Notice	iii

CONSULTATION ITEMS

Indian School Equalization Formula (ISEF) Study	1
Improved Accountability Measures/Indicators of School Quality	9
Alaska Native Education	11
Public Law 101-301 "Miscellaneous Indian Law Amendments" (Includes Construction Funds)	15
Exceptional Education Regulations	19
Alternative Funding Methods for Construction of Indian Schools	59

Appendix--Status Report of July 1993 Consultation Items

Programs available for American Indian and Alaska Native students funded by the Bureau of Indian Affairs and other Federal Agencies, including school operations.

Tribal Consultation Dates for 1994

Inclusion of Indian School Equalization Program and Tribally Controlled Community College funds in Tribal Self-Governance Compacts.

The Indian School Equalization Program (ISEP) Formula.



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Washington, D.C. 20240



Dear Tribal Leader/School Board Member/Others:

In keeping with the commitment of this Office to afford Indian tribes, parents, schools and interested parties the opportunity to consider, discuss and propose options for the resolution of issues relating to education programs and to offer alternatives to change which the Bureau may be considering, we are pleased to advise that added consultation meetings will be held in October, 1993.

DATES, SITES AND LOCAL CONTACTS:

The locations, dates and local contacts for the meetings are provided in the draft copy of the Federal Register Notice of the meetings included in this Booklet. Specific meeting locations can be obtained from the local individual contacts which are identified in the Notice for each site.

CONSULTATION PROCESS:

The meetings will use a discussion format and be conducted by regional consultation teams, comprised of Bureau and tribal representatives as has been done since 1992. Overall, the process is as follows:

1. A Consultation Steering Committee will select the consultation items; prepare materials and produce a Tribal Consultation Booklet.
2. A Notice announcing consultation meeting dates and locations will be published in the Federal Register.
3. The Tribal Consultation Booklet containing the agenda items will be mailed to Tribes and School Boards.

4. Eleven consultation meetings will be conducted by the regional consultation teams, using a discussion format, on the items in the Booklet.
5. Regional teams conducting each meeting will encode, on-site, data from comments made during the meeting into a Tribal Consultation Data Base; and, generate a summary report of the day's consultation comments for distribution at the end of that day's meeting.

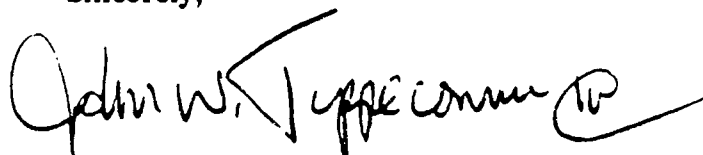
FORMAT FOR COMMENTS AND RESPONSES:

Since comments from several hundred respondents are anticipated, it will be helpful if all comments and suggestions, written and oral, provide the following information:

1. Consultation Item/Topic being addressed.
2. Name of the respondent; AND, Name & Address of the organization which respondent represents.

We encourage all tribes, Indian school boards and parents to attend the meetings and provide oral and/or written comments on the consultation topics. If there are any questions please do not hesitate to call on the local contact identified for your respective area.

Sincerely,

A handwritten signature in dark ink, appearing to read "John W. Tuppe", followed by a large, stylized flourish or "tw" mark.

Director, Office of Indian Education
Programs

[4310-02]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Tribal Consultation on Indian Education Topics

AGENCY: Bureau of Indian Affairs, Interior

ACTION: Notice of Tribal Consultation Meetings

SUMMARY: Notice is hereby given that the Bureau of Indian Affairs (BIA) will conduct consultation meetings to obtain oral and written comments concerning potential issues in Indian education programs. The potential issues which will be set forth in a tribal consultation booklet to be issued prior to the meetings are as follows:

1. Indian School Equalization Formula (ISEF) Study
2. Improved Accountability Measures/Indicators of School Quality
3. Alaska Native Education
4. Public Law 101-301 "Miscellaneous Indian Law Amendments" (Includes Construction Funds)
5. Exceptional Education Regulations
6. Alternative Funding Methods for Construction of Indian Schools

DATES: October 13, 15, 18, and 20, 1993 for all locations listed. Several of the dates and locations were scheduled to coincide with meetings of various Indian education organizations. All meetings will begin at 8:00 a.m. and continue until 3:00 p.m. (local time). Written comments concerning the consultation items must be received no later than November 10, 1993.

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ADDRESSES:

<u>Location</u>	<u>Local Contact</u>	<u>Telephone</u>
OCTOBER 13, 1993		
1. NORTH DAKOTA, Bismarck	Jim Davis	701/477-6471
2. ALASKA, Anchorage	Robert Pringle	907/271-4115
OCTOBER 15, 1993		
1. MINNESOTA, Bemidji	Betty Walker	612/373-1090
2. ARIZONA, Phoenix	Mike Smith Rosella Lawrence	602/562-3557
OCTOBER 18, 1993		
1. NEW MEXICO, Albuquerque	Val Cordova	505/766-3034
2. MONTANA, Billings	Larry Parker	406/657-6375
3. OKLAHOMA, Oklahoma City	Jim Baker	405/945-6051
4. WASHINGTON, Spokane	Van Peters	503/230-5682
OCTOBER 20, 1993		
1. NEW MEXICO, Gallup	Larry Holman	505/786-6150
2. TENNESSEE, Nashville	Kimberly Marciano	703/235-3233
3. NEVADA, Reno	Fayette Babby	916/978-4680

Written comments should be mailed, to be received, on or before November 10, 1993, to the Bureau of Indian Affairs, Office of Indian Education Programs, MS 3512 MIB, 1849 C. Street, NW, Washington, D.C. 20240, Attn: Dr. John Tippeconnic; OR, may be hand delivered to Room 3512 at the same address.

FOR FURTHER INFORMATION CONTACT: John Tippeconnic or Jim Martin at the above address or call 202/208-6123 or 208-3550.

SUPPLEMENTARY INFORMATION:

The meetings are a follow-up to similar meetings conducted by the BIA since 1990. The purpose of the consultation, as required by 25 U.S.C. 2010(b), is to provide Indian tribes, school boards, parents, Indian organizations and other interested parties with an opportunity to comment on potential issues raised during previous consultation meetings or being considered by the BIA regarding Indian education programs. A consultation booklet for the October meetings is being distributed to Federally recognized Indian tribes, Bureau Area and Agency Offices and Bureau-funded schools. The booklets will also be available from local contact persons and at each meeting.

DATE

ASSISTANT SECRETARY - INDIAN AFFAIRS

CONSULTATION ITEM #1

CONSULTATION ITEM/TOPIC:

The Indian School Equalization Program (ISEP) Formula: (Weighted Student Units, Small School Adjustment, DoDDS Salary Schedule, and special problems)

POTENTIAL ISSUE OR CHANGE:

Recommendation of alternative funding distribution mechanisms

REASON FOR PROPOSING ISSUE OR CHANGE:

Comments from the 1993 consultations and March 1993 request from the US Senate Committee

CURRENT OPTIONS BEING CONSIDERED BY THE BUREAU:

To complete the design and implement a study that will lead to the development and recommendation of a new or revised funding formula. The intent of this formula will be to (a) provide sufficient funds in a fair and equitable manner to support a quality education program for all special and regular Indian youth attending BIA-funded schools and/or residing in BIA dormitories, (b) address problems related to the continued operation of small schools and the mandated DoDDS salary schedule, and (c) provide evidence of accountability and school performance for parents and interested others.

BACKGROUND

Significant changes have taken place in the education of children in BIA-funded schools and dormitories in the 15 years since the enactment of P.L. 95-561. The school boards for each school and dormitory have provided Indian parents with the opportunity to influence the education of their children. The Indian School Equalization Program (ISEP) has increased the objectivity of the methodology used to allocate funds to individual schools and dormitories. Indian children have increased access to a range of educational programs. Legislation providing for contract and grant schools has increased the choices available to Indian people. Recently, the BIA has created a school improvement network under the Bureau Effective Schools Team (BEST). However, school officials are having funding problems and during a period of high interest in school improvement.

Even though the current funding formula may be equitable and objective in the allocation of funds to schools, questions have been raised about the adequacy of the funding level per student and the capacity (flexibility) of the formula to address the unique needs of individual schools and dormitories. The current funding methodology for BIA schools and dormitories is not responsive to externally imposed changes such as the changes in the DoDDS salary schedule.

Issues

Several specific issues can be identified concerning the current governance/funding system for BIA-funded schools. Local school boards for BIA schools and dormitories were created by Federal statute as an application of the principle of self-determination for Indian people; however, a complex system of Federal statutes and regulations limits the powers of these local school boards. Examples of the issues include the following:

1. P. L. 95-561 provided for the creation of local school boards with authority over each of the BIA-funded schools and dormitories. These BIA-funded schools were presumed to be similar to local school districts under the public school model in States, but the BIA-funded schools do not have powers similar to those of public school boards. For example, BIA-funded schools do not have a local tax base through which they can supplement the ISEP funding with local taxes in the same manner as most public school districts supplement the State's foundation program.
2. Even though all schools and dormitories are funded under the same ISEP formula, the schools are of three types: BIA-operated, contract, and grant. Each school has its own school

board and its own allocation of funds, but regulatory controls are different. the school boards in the three types of schools have widely different powers. For example, teacher salary schedules in BIA-operated schools are externally imposed, but are set by the local school boards in the contract and grant schools. Also, for BIA-operated schools, Federal regulations empower the school board to interview and recommend personnel, but only a Federal official can sign-off on employment of personnel.

3. BIA-operated schools and dormitories are mandated to participate in certain programs and make certain expenditures irrespective of the increases/decreases in the ISEP amount. For example, the teachers' salary schedule in BIA-operated schools is linked to the teachers' salary schedule for the Department of Defense Dependents Schools (DoDDS). However, the ISEP amount per weighted student has not increased in the same proportion as the DoDDS schedule and is not "coupled" to changes in the schedule or other mandated increases. Thus, school boards have no choice except to implement the new schedule and make whatever program or service adjustments necessary to fund the increase. Health insurance costs also are determined externally. Another example is the optional supplemental retirement that teachers may select under the Federal Employees Retirement System (FERS); school boards are required to provide the fringe benefit for employees and must provide matching funds. If ISEP pupil values do not increase, schools must reduce budgets in other areas to fund the mandated salary schedule increases and cost sharing.
4. Low-enrollment schools and dormitories are at a disadvantage under the ISEP student-based funding formula. The current formula does not recognize the base start-up cost of opening a school or dormitory and the cost of providing programs in low enrollment schools and dormitories. Most schools and dormitories do not have sufficient students to benefit from economies of scale. Some observers might contend that the funding formulas should discourage the continued operation of small schools and that schools in close proximity should be consolidated. One alternative would be for the BIA to assign isolated students to boarding schools.
5. The BIA has adopted standards for school and dormitory operation, but the funding methodology has not been linked to these BIA Standards. Some interest has been expressed in linking the standards to the funding formula.

Proposed Study

This comprehensive study of the financing of BIA-funded schools and dormitories is designed to identify and analyze problems and issues related to the financing of BIA-funded schools and dormitories and to use these findings in developing a revised formula. Before completing the draft study design, consultations will be held with school boards for BIA-funded schools and tribal officials to seek their input concerning problem areas and needed changes in the funding formula. Efforts also will be made to secure input from State and local educational agencies for public schools in areas served by BIA-funded schools. An advisory group with Washington-based and field-based membership will give counsel and direction to the study.

The study will consist of a series of sub-studies designed to provide background information and supportive evidence for the recommendations in the project report. No effort will be made to evaluate management or decision-making processes at the school level. The focus will be on providing adequate funding for the day-to-day operation of the instructional program and pupil transportation. In addition, the study will explore existing Federal funding constraints and methods to avoid future shortfalls. The current funding methodology will be analyzed to identify problem areas and opportunities for improvement.

The success of the study will depend upon the cooperation and involvement of BIA/OIEP and local school personnel. Plans call for the study team to have access to program, personnel, and financial data for BIA-funded schools and dormitories; have access to central data about BIA-funded schools and dormitories; be permitted to make field visits to BIA-funded schools and dormitories and selected public school districts; be permitted to schedule a series of drive-in regional meetings with school personnel in BIA-funded schools and dormitories; and receive support and cooperation from BIA/OIEP personnel and offices at all levels. The probability of a successful study will be enhanced if at least one member of the advisory group and/or OIEP central office staff participates in the regional meetings and possibly in the field visits.

Consultation and Advisory Group

Regional consultation sessions will be held with school boards for BIA-funded schools and tribal officials to seek their input concerning problem areas and needed changes in the current funding formula. Efforts also will be made to provide State and local educational agencies for public schools in areas served by BIA-funded schools with the opportunity to comment.

The study process will be guided by an advisory group. Membership will consist of (a) field-based school and agency personnel, (b)

representatives of school board members, (c) Washington-based executive agency policy and budget personnel, (d) legislative staff, and (e) representatives of national groups. Recognizing that the focus of this study is on the financing of BIA-funded schools, this group will provide input for the overall study design, areas of study, desired data, study procedures, sample school and dormitory selection, data analysis, and the format of the study report.

Study staff will have three meetings with the advisory group for the following purposes: (1) advice and counsel on study design and selection of BIA case study schools and dormitories, (2) mid-project interim progress report and discussion of accountability indicators, and (3) presentation of the draft report.

The project report will be presented to the advisory group for comment before submission to the Director. Upon completion of the project, consultations will be held with school boards for BIA-funded schools and tribal officials to seek their comments on the study recommendations.

Design of the Study

This study is designed to identify the problems that local schools and dormitories are experiencing in funding their programs, to create alternative funding formulas for addressing these problems, to determine their application on existing BIA-funded schools and dormitories, and to present recommendations for changes in the funding formulas. The study will consist of the following steps:

1. Consultation and completion of study design. Consultations are being held with school boards and tribal officials to identify problems or issues that should be addressed in the study. Following these meetings and meetings with the advisory group, the study team will meet with OIEP staff and make necessary modifications to accommodate these recommendations. After the study design has been completed, the study team will consult with individual schools and OIEP personnel concerning strategies for data gathering.
2. Analysis of funding formulas in other systems of schools and States with small and isolated schools. This phase of the study will consist of three components; one will be a series of case studies/visitations of intra-district allocation methodologies and budgets in 4-6 public school districts with enrollments in excess of 20,000 students that serve sparsely populated large geographical areas. The rationale for this phase is that the BIA-funded schools have more similarities to a large diverse local school district than to most State educational delivery systems.

The second component will consist of a detailed analysis of statutes, regulations, and procedures used in public school funding methodologies in Hawaii, Alaska and other states such as New Mexico, North/South Dakota, Arizona and others. Hawaii is organized as a single school district with no local districts that have taxing power, but operates schools on each of the islands. A single salary schedule is used, and some schools are small and isolated. Alaska provides full funding from the State to school districts in the formerly unorganized territory; these school districts have local school boards, operate small schools, and have no local tax base.

A third component of this phase will be interviews with Washington DoDDS personnel to secure information for the detailed analysis of the budgetary process and internal allocation methodology used by DoDDS. In this analysis, specific attention will be given to DoDDS procedures for funding increases in the salary schedules and mandated fringe benefits. This information and reports from the public school field visits will be analyzed to determine the procedures used in allocating human and material resources to individual schools, central services provided to schools, and operational problems encountered in administering the various funding methodologies.

3. Analysis of the budgetary effect and the differential impact of the DoDDS salary schedule on individual BIA-operated schools. Teacher personnel information will be secured for all teachers in each BIA-operated school, and average salaries on the DoDDS schedule will be calculated for each school. These data will be analyzed to determine the differences among schools in average salary burden among BIA-operated schools. If the analysis indicates significant differences in average salary burden, an effort will be made to secure experience and training data for teachers in contract and grant schools so that the funding effect of a teacher training and experience index may be simulated.
4. Group meetings with school personnel to secure school-by-school reports of spending patterns and projected fiscal requirements. Approximately 10 one-day drive-in regional meetings will be held with school and dormitory personnel to gather information on spending patterns and proposed budgets of individual schools and dormitories. Schools will have the opportunity to submit documentation of specific operational problems including the ability to meet BIA Standards. These data will be summarized and analyzed in the project report.
5. Intensive case studies/school visitations to determine the impact of BIA Standards on a geographically and organizationally diverse sample of BIA schools and

dormitories. The survey team will visit a selected group of schools and dormitories to (a) validate the self-report on BIA Standards that has been completed by the school and dormitory, (b) identify problems that these schools are having in meeting the standards, and (c) interview school staff and parents to determine the potential uses of educational indicators at the school level. To ensure confidentiality and cooperation, all comments will be anonymous and no references will be made to individual schools. The general comments about all visited schools will be summarized and analyzed in the project report.

6. Computer simulation of the effect of the application of BIA Standards on the staffing requirements in each BIA-operated, grant, and contract school. Using current enrollment information and existing BIA Standards, the personnel requirements for each school will be projected. Notations will be made of the potential incidence of "split" grades, parttime employees, and other conditions that might adversely affect educational opportunities. A summary and analysis of the findings in this phase will be included in the project report.
7. Analysis of data, preparation of draft report, presentation of draft project report to consultation meetings and advisory group, and preparation of final project report. In developing study recommendations, special attention will be given to the level of funding required to provide quality programs and services for pre-school and regular K-12 education students at all grade levels as well as the educational needs of special populations. The study team will analyze data from the reports and field visits and prepare draft recommendations with simulated impact for submission and presentation to the advisory group for comment.

Upon completion of the draft report, consultations will be held with school boards for BIA-funded schools and tribal officials to seek their comments on the study report's recommendations. These comments will be included in the materials provided to the advisory group and in the final report.

QUESTIONS:

1. What special needs of Indian youth or special conditions in BIA-funded schools are not recognized in the current funding formula?
2. What provisions in the current funding formula create special problems for your school?
3. How does the DoDDS salary schedule help your school attract and retain quality teachers? What kinds of problems does the DoDDS salary schedule cause for your school?
4. What changes should be made in the academic and dormitory standards to make them more relevant to your school?
5. What changes should be made in the ISEP funding formula so that your school can meet the academic and dormitory standards?
6. What changes should be made in the ISEP formula to encourage efficiency and make the formula more responsive to local conditions?
7. Should schools have more flexibility in being permitted to carryover funds from one school year to the next?
8. Should the ISEP base dollar amount per pupil be adjusted on the basis of the spending level of the State in which the school is located or on the basis of the spending level in adjacent public school districts, or should the current single national ISEP dollar per pupil amount be retained?
9. As tribal governments become more economically independent, should a program of federal grants with tribal matching funds be initiated to give tribal governments more ownership and commitment to educational programs?
10. Given existing and likely future Federal funding constraints, what changes to the current ISEP funding formula should the Bureau consider?
11. What changes could be made to ensure that future shortfalls in Bureau-funded schools can be avoided?

CONSULTATION ITEM #2

CONSULTATION ITEM/TOPIC:

Improved Accountability
Measures//Indicators of School
Quality

POTENTIAL ISSUE OR CHANGE:

Improved accountability measures
for schools and better
communication with parents
concerning school quality

REASON FOR PROPOSING ISSUE OR
CHANGE:

Comments from the 1993
consultations and March 1993
request from the US Senate
Committee

CURRENT OPTIONS BEING
CONSIDERED BY THE BUREAU:

Development of a process for the
identification and selection of
accountability or school quality
indicators to be used by BIA-
funded schools and dormitories.

BACKGROUND

The National Goals for Education have emphasized the importance of providing parents and others with school quality indicators that will provide a picture of how their school is performing. Recently, States and Federal agencies have identified various educational indicators that can be used for assessing school performance.

The purpose of this ISEP study is to develop a process for the identification and selection of school quality indicators that BIA-funded schools and dormitories might use to report school progress to their various constituencies. The first component of the study will be a review of information from State and Federal educational agencies and the literature to identify indicators that have potential applicability to BIA-funded schools and dormitories. This list of possible indicators will be submitted to the advisory group whose membership includes school personnel and school board members for comments and suggested revisions.

Following development of this revised list of possible indicators, the second component of the study will be to recommend a process for BIA-funded schools to use in identifying those indicators relevant to their unique needs and circumstances. Information for this component will be gathered from the existing literature base and the comments from the tribal consultation sessions, advisory group, and site visits. When the BIA and the schools determine the appropriate indicators, these indicators could then be used in status reports to school patrons, OIEP, Department of Interior, OMB, and congressional committees and staff. Potential documents include a report card for the patrons of each school and dormitory and system-wide student performance indicators.

- QUESTIONS:
1. What information do you consider to be evidence that your school is doing an effective job educating its students?
 2. What changes should be made in the academic/dormitory standards so that they will help your school be more effective and improve its overall quality?
 3. Should the BIA adopt a set of indicators that all schools are required to use or should each school choose its own indicators from a comprehensive list of widely used indicators?
 4. Should the BIA/OIEP assume a more active role in the review of school budgets to ensure that funds are being used most efficiently to meet academic and dormitory standards?

CONSULTATION ITEM #3

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CONSULTATION ITEM/TOPIC:

Alaska Native Education.

POTENTIAL ISSUE OR CHANGE:

To determine the role of the Bureau with regard to Alaska schools and Alaska Native education.

REASON FOR PROPOSING ISSUE OR CHANGE:

In the FY 1994 budget process, the House and Senate have asked the Bureau to initiate a study group or task force to assess the role of the Bureau in Alaska.

CURRENT OPTION(S) BEING CONSIDERED BY THE BUREAU:

To identify (1) what role the Bureau should play with regard to Alaska schools and Alaska Native education and (2) what other actions or sources of funding might be identified to assist or improve the educational programs of these Alaska schools.

BACKGROUND

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In 1985 the Congress passed P. L. 98-63, which transferred the remaining Bureau of Indian Affairs (BIA) schools to the state educational system of Alaska. The law further stated that " local village concurrence is not required in this continuing effort to establish a single system of education envisioned by the State's constitution." The transfer included all BIA operated and Tribal contract (P.L. 93-638) schools. With the completion of the transfer, Indian School Equalization Program (ISEP) funds were no longer provided to Alaska for school operations after 1985.

In 1988 with the passage of P.L. 100-297 Tribal entities were provided with an new alternative to the P.L. 93-638 contracting process for assuming BIA education programs. Tribes could now apply to the BIA to receive ISEP funds to operate a Tribal school through a grant document. One particular Alaska village has applied to the BIA for a Tribal school grant under the authority of P.L. 100-297. The Office of Indian Education Programs anticipates that other Alaska villages may apply for school operation grants in the future.

In the FY 1994 budget process, both the House and the Senate want the Bureau to assess its role with Alaska schools and Alaska Native education.

House Report No. 103-158 states:

"...The committee has also revised the proposed language on Alaska schools, to indicate that while no funding has been included for operation of these schools in the fiscal year 1994 bill, the Bureau should initiate consultation with Alaska Native groups to determine what role, if any, the Bureau should play with regard to the Alaska schools, and what other actions or sources of funding might be identified to assist or improve the educational programs of these schools."

Senate Report No. 103-114 states:

"...The committee has included bill language as modified by the House to indicate that the Bureau should initiate a joint task force with Alaska Natives to determine what role the Bureau should play with regard to Alaska schools and Alaska Native education, and what other actions or sources of funding might be identified to assist or improve the educational programs of these schools. In addition to the Assistant Secretary of Indian Affairs, and the Department of

Education's Assistant Secretary for Elementary and Secondary Education and Office of Indian Education, the task force should include the Alaska Federation of Natives, the Alaska Native Education Council, the Association of Alaska School Boards, and the Alaska Department of Education.

Question #1: What should the BIA role be with Alaska schools and Alaska Native education?

Question #2: What other actions or sources of funding might be identified to assist or improve the educational programs of these Alaska schools?

CONSULTATION ITEM #4

=====

CONSULTATION ITEM/TOPIC:

POTENTIAL ISSUE OR CHANGE:

REASON FOR PROPOSING ISSUE OR CHANGE:

CURRENT OPTION(S) BEING CONSIDERED BY THE BUREAU:

Public Law 101-301 "Miscellaneous India Law Amendments"

P.L. 101-301 permits Tribes and authorize Tribal Grant Schools to request the Congressionally appropriated funds for Facilities Operation and Maintenance Minor Improvement and Repair (Health Safety Abatement); Major Facilities Improvement and Repair and Facilities Construction funds for elementary and secondary education be included in grant as authorized by P.L. 100-297.

To clarify the process the BIA will use to implement the inclusion of education facilities programs and school construction projects in P.L. 101-297 grants. This process will not change the way Facilities Operation and Maintenance funds are administered.

To use the P.L. 100-297 grant document as the vehicle to transfer funds under this amendment. Only minimal changes will be made to existing instructions and forms to include construction accounts.

To incorporate into the P.L. 100-297 process, 43 CFR Part 12 - Single Audit Act and Administrative and Audit Requirements and Cost Principles for Assistance Programs, as the procedures for applying for construction and FI&R grants.

The procedures under 43 CFR Part 12 provide for the use of Standard Form 424 as the application form.

BACKGROUND

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The Bureau of Indian Affairs established a team composed of representatives of Tribal P.L. 100-297 grant schools; the Office of Construction Management; Office of Indian Education Programs; the Bureau's Facilities Management Construction Center; Bureau of Indian Affairs Contracts Officer, and the Department of Interior's Office of the Solicitor, to develop recommended implementation procedures relative to the authorities contained in P.L. 100-297, as amended by P.L. 101-301.

As a result of the Team's work, the Bureau of Indian Affairs is proposing to incorporate into the P.L. 100-297 grant process 43 CFR Part 12, A-D, as the application process which outlines the facilities construction grants requirements.

Rationale:

- a. These requirements were promulgated prior to the enactment of P. L. 100-297 and have been incorporated into the OMB Audit and Reporting Requirements.
- b. These requirements apply to all Department of the Interior grants and treat applicants equally.
- c. The Department of the Interior and other Federal agencies have awarded grants to Federally recognized tribes using this established application process. Thus, Tribes are familiar with the requirements.

The Bureau of Indian Affairs is not proposing to change how appropriated facilities funding or construction projects are identified and prioritized as a result of the P.L. 101-301 amendments to P.L. 100-297. The amendments did not create a separate priority ranking process for P.L. 100-297 grant schools to obtain appropriated facilities funding. However, once facilities funds or a construction project is identified for a grant school and funds are appropriated by Congress for the project, the Tribe or its authorized representatives may request the funds be included in their school grant.

For several of the facilities construction accounts, prioritization of projects is based on deficiencies identified in the BIA facilities inventory, the FACCOM system. For new school construction, P.L. 100-297 grant schools will still be required to submit applications and compete under the priority ranking procedures for new school construction with other BIA-funded schools. The Bureau of Indian Affairs is not proposing to change or supercede these established prioritization processes.

MISCELLANEOUS INDIAN LAW AMENDMENTS

The following is the amending language from P.L. 101-301 to P.L. 100-297 with regard to facilities accounts:

(g) (1) Paragraph (2) of subsection 5205(a) of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2504 (a) is amended to read as follows: (2) to the extent requested by such Indian tribe or tribal organization, the total amount of funds provided from operations and maintenance accounts and, notwithstanding section 105 of the Indian Self-determination Act (25 U.S.C. 450j), or any other provision of law, other facilities accounts for such schools for such fiscal year including but not limited to all those referenced under section 1126(d) of the Education Amendments of 1978, or any other law), and, (2) Subsection (b) of section 5205 of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2504(b) is amended by adding the following new paragraph:

"(4) Notwithstanding the provision of paragraph 5204(a)(2) of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2503(a)(2), with respect to funds from facilities improvement and repair, alteration and renovation (major or minor), health and safety, or new construction accounts included in the grant under such paragraph (a)(2), the grantee shall maintain a separate account for such funds and shall, at the end of the period designated for the work covered by the funds received, render a separate accounting of the work done and the funds used to the Secretary. Funds received from these accounts may only be used for the purposes for which they were appropriated and for the work encompassed by the application or submission under which they were received.....

THE IMPLEMENTATION PROCESS

The following is an outline of the proposed implementation process for Tribal Governments or their officially sanctioned representatives regarding applications and grants under P.L. 100-297, as amended by P.L. 101-301:

1. Congress passes Department of Interior, Bureau of Indian Affairs Construction Appropriations.
2. Facilities Management and Construction Center (FMCC) notifies affected Tribes of projects and the amount of funding which may be granted.
3. The Tribal government or officially sanctioned representative of the Tribe identified in the tribal resolution requests that facilities construction project funds be included in the P.L. 100-297 Grant by submission of Standard Form 424 and all other information required under 43 CFR Part 12, A-D, to the Office of Indian Education Programs line officer.

4. The Office of Indian Education Programs line officer convenes a meeting of the Agency/Area/and FMCC technical facilities construction experts to review the facilities construction grant application and make a determination on the capabilities of the applicant to perform the identified project following the provisions outlined in 43 CFR Part 12, A-D. Once a determination is made, the applicant will be notified in writing of the determination and a negotiation meeting will be arranged to determine the specific requirements of the project.

5. Once the negotiations are finalized, a construction award will be implemented for a specific designated phase (planning, design or construction) of the total project and authorization for transfer of the negotiated amount for that phase of the project to the P.L.100-297 grant will be made.

6. Upon completion of one phase of the project, the same procedures will be employed to negotiate the next phase of the project and so on until the project is complete.

43 CFR PART 12 AND STANDARD FORM 424 AND INSTRUCTIONS

Due to printing limitations, a complete copy of 43 CFR Part 12 and Standard Form 424 and Instructions is not being included in this consultation booklet. However, under separate cover, copies will be mailed to all parties to whom the consultation booklet is distributed.

CONSULTATION ITEM # 5

CONSULTATION ITEM/TOPIC:

**25 CFR PART 45 - SPECIAL
EDUCATION**

POTENTIAL ISSUE OR CHANGE:

**Revise existing regulations to comply
with Amendments to the Education of
the Handicapped Act.**

**REASON FOR PROPOSING ISSUE OR
CHANGE:**

**To revise the Bureau's existing
regulations for Part B - Education of
Children with Disabilities Programs to
comply with the Handicapped Act
Amendments of 1990 and the
Individuals with Disabilities Education
Act Amendments of 1991.**

**CURRENT OPTION(S) BEING
CONSIDERED BY THE BUREAU:**

**To publish, after Tribal consultation, a
revised version of 25 CFR Part 45 for
the implementation of special education
services to Indian children with
disabilities enrolled in Bureau funded
schools.**

BACKGROUND

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Part B authorizes funds to the Bureau to assist in meeting the special education needs of children with disabilities. In order to be eligible for funding under this program, the Bureau must ensure that all children with disabilities have available to them a free appropriate public education (FAPE) and that the procedural protection in part B and the implementing regulations are extended to those children and their parents.

These regulations implement the changes made to part B by the Handicapped Programs Technical Amendments of 1990 and the 1991 Amendments (P.L. 102-119, enacted October 7, 1991). The major changes made to implement these Amendments are:

1. Add "autism" and "traumatic brain injury" as separate disability categories in the definition of children with disabilities, and include definitions of those terms.
2. Add a definition of "rehabilitation counseling services" to implement statutory amendment to the definition of "related services".
3. Add the statutory definitions of "assistive technology device" and "assistive technology service".
4. Add provisions on transition services including: (a) a definition of "transition services"; (b) add a provision specifying that the school must ensure that certain transition services personnel participate in meetings to develop, review, or revise a student's individualized education program (IEP) if transition services are being considered; (c) The school must include the student in IEP meetings concerning transition services; (d) a requirement that the content of the IEP must include a statement of needed transition services and of interagency responsibilities or linkages if other agencies have responsibility for providing or paying for those services; and (e) a provision specifying that if a participating agency fails to provide agreed upon transition services, the school must reconvene the IEP team to identify alternative strategies to be implemented to meet the transition objectives in the student's IEP.

5. Revise the current regulations on the comprehensive system of personnel development (CSPD) to include new provisions reflecting changes made by the 1990 Amendments.
6. To incorporate terminology used in the current regulations by deleting all references to "handicapped children" in the regulations and substituting "children with disabilities."
7. The 1991 Amendments significantly revised section 611(f) of the IDEA, which authorizes payments to the Secretary of the Interior under part B for the education of Indian children. Section § 45.2 now provides that the Secretary of the Interior is responsible for meeting the need of children with disabilities on reservations, aged 5 through 21, who are enrolled in elementary and secondary schools for Indian children operated or funded by the Secretary of the Interior.

Consistent with the requirements of the new section 611 (f) of IDEA, the State (SEA) shall be responsible for ensuring all the requirements of Part B of the Act are implemented, with the exception of those children identified above, for all children aged 3 through 21 on reservations.

In addition, in accordance with the new section 611 (f)(4) of IDEA, the Secretary shall make payments to the Secretary of the Interior to be distributed to tribes or tribal organizations to provide for the coordination of assistance for special education and related services for children with disabilities, aged 3-5, on reservations served by elementary and secondary schools for Indian children operated or funded by the Department of the Interior. These funds are to be used for child find, screening, and other procedures for the early identification of children, aged 3-5, parent training, and for direct services.

PART 45--SPECIAL EDUCATION

Subpart A--General

Sec.

- 45.1 Mission Statement
- 45.2 General responsibility
- 45.3 Tribally controlled school grants.
- 45.4 Student rights.
- 45.5 Full educational opportunity
- 45.6 Definitions.

Subpart B--Identification and Evaluation of Children with Disabilities

- 45.11 Child find.
- 45.12 Child find--elements.
- 45.14 General entry screening.
- 45.15 Periodic school screening.
- 45.16 Screening personnel.
- 45.17 Referrals.
- 45.18 Individual evaluations.
- 45.19 Evaluation procedures.
- 45.20 Individual evaluation objectives.
- 45.21 Formation of multi-disciplinary evaluation teams.
- 45.22 Composition of multi-disciplinary evaluation teams.
- 45.23 Content of individual evaluations.
- 45.24 Placement Procedure
- 45.25 Location of evaluation.
- 45.26 Multi-disciplinary evaluation team procedures.
- 45.27 Emergency evaluation and placement.
- 45.28 Additional procedures for evaluating specific learning disabilities.
- 45.29 Independent educational evaluation.

Subpart C--Provisions of Special Education and Related Services

- 45.30 Free appropriate public education
- 45.31 Individualized education program (IEP).
- 45.32 Meetings.
- 45.33 Participants in Meetings.
- 45.34 Content of individualized education program (IEP).
- 45.35 Least Restrictive Environment (LRE)
- 45.36 Residential Placement.
- 45.37 IEP revision, review of placement
- 45.38 Re-evaluation.

- 45.39 Extended school year services.
- 45.40 Completion of education program.
- 45.41 Related services.
- 45.42 Non-academic and extracurricular services.
- 45.43 Physical education and athletics.
- 45.44 Discipline of children with disabilities.

Subpart D--Procedural Safeguards

- 45.51 Notice to parents.
- 45.52 Written parental consent.
- 45.54 Record access rights.
- 45.55 Confidentiality of information.
- 45.56 Surrogate parents.
- 45.57 Conciliation/mediation.
- 45.58 Initiation of hearings.
- 45.59 Hearing officers.
- 45.60 Impartial hearing officer.
- 45.61 Hearing rights.
- 45.62 Timeliness and convenience of hearings and reviews.
- 45.63 Administrative appeal: impartial review.

Subpart E--Personnel

- 45.65 Comprehension System of Personnel Development (CSPD).
- 45.66 Qualifications of staff.

Subpart F--School Administration

- 45.70 Assurance of compliance.
- 45.71 Program evaluation.
- 45.72 Comparability of facilities.
- 45.72A Architectural barriers and program accessibility.
- 45.72B Geographic accessibility.
- 45.73 Non-discrimination.

Subpart G--Responsibilities of the Director

- 45.74 Director, Office Indian Education Programs
- 45.76 Complaint procedures.
- 45.77 Use of available funds.
- 45.78 Children for whom the Division of Social Services has accepted financial responsibility.
- 45.79 Cooperative agreements.
- 45.80 Bureau of Indian Affairs Advisory Committee for Exceptional Children.

appropriate public education in the least restrictive environment and compliance with the requirements of this part.

§45.3 Tribally controlled school grants

(a) Tribally controlled schools are those schools operated by a tribe, or tribal organization under the authority of the Tribally Controlled Schools Act of 1988.

(b) Tribally controlled schools which receive funds under Part B of the Individuals With Disabilities Act (IDEA) through the Bureau shall comply with the rules contained in this part. Re: P.L. 100-297 §5205 (b)(2)(c).

§45.4 Student Rights

(a) The regulations in this part do not prohibit educational institutions from exercising their discretion in affording students rights similar to those given parents, insofar as they do not conflict with and are not inconsistent with the right afforded parents. Re: From 25 CFR 43.4 (revised)

§45.5 Full educational opportunity

(a) A full educational opportunity must be provided to all children with disabilities ages five (5) through twenty-one (21) who are enrolled in schools operated or funded by the Bureau of Indian Affairs.

§45.6 Definitions

(a) "Approved public or non-public school" means:

(1) Either a public school operated by an intermediate educational unit, a local education agency or other public agency as those terms are defined in 34 CFR 300.10, 300.11 and 300.14 of a State that receives funds under Part B of the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. §§1411-1420) Re: §901 (m)(1) PL 101-476 pursuant to a current

annual program plan approved by the Secretary of Education, or

(2) A non-public school located in a state determined by the state educational agency to be in full compliance with all applicable state and federal special education requirements.

(b) "Assistive technology device" means any item, piece of equipment, or product system, required for implementation of the IEP, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities or children with disabilities.

(c) "Assistive technology service" means any service required for the implementation of the IEP that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device and includes: The evaluation of the needs of a child with a disability; providing for the acquisition of assistive technology devices; selecting, designing, fitting customizing, adapting, applying, retaining, repairing, or replacing assistive technology devices; coordinating assistive technology devices with other programs and services; training or technical assistance for a child with a disability or the child's family, if appropriate; training or technical assistance for professionals or other individuals providing services for children with disabilities.

(d) "Boarding school" means a Bureau school offering a residential center and support services as well as an academic program.

(e) "Bureau of Indian Affairs (BIA), or Bureau" means the Bureau of Indian Affairs of the Department of Interior.

(f) "Child identification" means the identification, location, and individual evaluation of children with disabilities.

(g) "Children with disabilities" means those children evaluated in accordance with this Part who are determined as having mental retardation, hearing impairments including deafness, speech, or language impairments, visual impairments including blindness, serious emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health

AUTHORITY: 5 U.S.C. 301; 25 U.S.C. 2 and 9; 20 U.S.C. 1411-1420.

SOURCE: 50 FR 34102 Aug 23, 1985, unless otherwise noted.

Subpart A--General

§45.1 Mission Statement

It is the mission of the Branch of Exceptional Education to assure that Indian children with disabilities, who are between the ages of 5-22 and are enrolled in Bureau funded schools, have available to them Free Appropriate Education in the Least Restrictive Environment in accordance with an Individual Education Program. This mission includes: monitoring to assure the rights of the children with disabilities and their parents or guardians are protected; providing technical assistance to provide for the education of all children with disabilities; and assessing the effectiveness of efforts to educate children with disabilities.

§45.2 General responsibility

(a) The Secretary of Interior is responsible for meeting the need for assistance for the education of children with disabilities on reservations, aged 5 through 21, who are enrolled in elementary and secondary schools for Indian children operated or funded by the Secretary of the Interior. Re §300.709(a)(1).

(b) The Secretary of the Interior shall be responsible for meeting all of the requirements of part B of the Act for the children described in paragraph (a) of this section. Re §300.709(b).

(c) With the exception of children identified in paragraph (a) of this section, the State (SEA) shall be responsible for ensuring that all of the requirements of Part B of the Act are implemented for all children aged 3 through 21 on reservations. Re § 300.300(c).

(d) The Secretary shall make payments to the Secretary of the Interior to be distributed to tribes or tribal organizations to provide for the coordination of assistance for special education and related services for children with disabilities,

aged 3-5, on reservations served by elementary and secondary schools for Indian children operated or funded by the Department of the Interior. These funds are to be used for child find, screening, and other procedures for the early identification of children, aged 3-5, parent training, and for direct services.

(e) Schools are responsible for providing a free appropriate education to all Indian children with disabilities enrolled in a school operated or funded by the Bureau of Indian Affairs (BIA) ages five (5) through twenty-one (21). Children whose fifth birthday occurs on or before December 31 or whose twenty-second birthday occurs during the course of the regular school year shall be regarded as eligible children for the entire school year.

(f) The Bureau has the responsibility to ensure the provision of a free appropriate education to a child with a disability until the child has successfully completed a secondary school program and is transitioned into a postsecondary education program, vocational training, integrated employment, continuing and adult education, adult services, independent living, or community participation program; voluntarily withdraws after reaching the State or Tribal compulsory attendance requirement; or attains the age of twenty-two (22) years. The Bureau is responsible for the provision of special education and related services regardless of whether the services are provided:

- (1) By a school directly;
- (2) Through a contract entered into by the school with a public or private agency;
- (3) By an educational cooperative of which the school is a member; or
- (4) By an approved public or non-public school program following placement or referral.

(g) Whenever a child with a disability is placed by a school, through contract, cooperative agreement or whatever means, the school remains responsible for the provision of a free

impairments, specific learning disabilities, deaf-blindness, or multiple disabilities, and who because of these impairments need special education and related services.

(1) "Autism" means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age 3, that adversely affects a child's educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change, or change in daily routines, and unusual responses to sensory experiences. The term does not apply if a child's educational performance is adversely affected primarily because the child has a serious emotional disturbance.

(2) "Deaf-blindness" means concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational problems that they cannot be accommodated in special education programs solely for deaf or blind children.

(3) "Deafness" means a hearing impairment that is so severe that the child is impaired in processing linguistic information through hearing, with or without amplification, that adversely affects a child's educational performance. Re: 34 CFR 300.7 FR.

(4) "Hearing impairment" means an impairment in hearing whether permanent or fluctuating, which adversely affects a child's educational performance but that is not included under the definition of deafness in this section.

(5) "Mental retardation" means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period, which adversely affects a child's educational performance.

(6) "Multiple disabilities" means concomitant impairments (such as mental disability-blindness, mental disability-orthopedic impairment, etc.) but not including speech impaired, the combination of which causes such

severe educational problems that they cannot be accommodated in special education programs solely for one of the impairments. The term does not include deaf-blindness.

(7) "Orthopedic impairment" means a severe orthopedic impairment which adversely affects a child's educational performance. The term includes impairments caused by congenital anomaly (e.g., clubfoot, absence of member, etc.), impairments caused by disease (e.g., poliomyelitis, bone tuberculosis, etc.), and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns which cause contracture).

(8) "Other health impairment" means:

(i) having limited strength, vitality or alertness, due to chronic or acute health problems such as a heart condition, tuberculosis, rheumatic fever, nephritis, asthma, sickle cell anemia, hemophilia, epilepsy, lead poisoning, leukemia, or diabetes, which adversely affects a child's educational performance; or

(ii) attention deficit disorder, acquired immune deficiency syndrome, fetal alcohol syndrome, or fetal alcohol effects, which adversely affects a child's educational performance.

(9) "Serious emotional disturbance" is defined as follows:

(i) The term means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree, which adversely affects educational performance including:

(A) An inability to learn which cannot be explained by intellectual, sensory, or health factors;

(B) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers;

(C) Inappropriate types of behavior or feelings under normal circumstances;

(D) A general pervasive mood of unhappiness or depression; or

(E) A tendency to develop physical symptoms or fears associated with personal or school problems.

(ii) The term includes schizophrenia. The term does not apply to children who are socially maladjusted, unless it is determined that they have a serious emotional disturbance.

(10) "Specific learning disability" means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations. The term includes such conditions as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. The term does not apply to children who have learning problems that are primarily the result of visual, hearing, or motor disabilities, or a mental disability, of emotional disturbance, or of environmental, cultural, or economic disadvantage. The term does not include children whose inability (to listen, think, speak, read, write, spell, or to do mathematical calculations) is the result of being bilingual, or those whose primary language is other than English.

(11) "Speech or language impairment" means a communication disorder, such as stuttering, impaired articulation, a language impairment, or a voice impairment, which adversely affects a child's educational performance. It does not include children who are bilingual or whose primary language is other than English.

(12) "Traumatic brain injury" means an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a child's educational performance. The term applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory, attention, reasoning; abstract thinking; judgment, problem-solving; sensory, perceptual and motor abilities; psychosocial behavior; physical functions; information processing, and speech. The term does not apply to brain injuries that are

congenital or degenerative, or brain injuries induced by birth trauma.

(13) "Visual impairment including blindness" means an impairment in vision that even with correction, adversely affects a child's educational performance. The term includes both partial sight and blindness.

(h) "Cooperative agreements" means an agreement between schools operated or funded in whole or in part by the BIA and state and local education agencies for the provision of special education and related services to children with disabilities enrolled or eligible to be enrolled in the BIA school.

(i) "Days" mean consecutive calendar days.

(j) "Director" means the Director, Office of Indian Education Programs (OIEP).

(k) "Education Line Office" means an organizational unit of the Bureau which provides direct services to the governing body or bodies of one or more specified Indian tribes. The term includes Bureau Area and Agency Education Offices.

(l) "Education Line Officer" means the Bureau official in charge of Bureau education programs and functions in an Education Line Office, and who reports to the Director. The term includes Area Education Program Administrator and Agency Superintendent for Education.

(m) "IDEA" means Part B of the Individuals With Disabilities Education Act (20 U.S.C. 1411-1420) and regulations issued thereunder by the United States Department of Education (34 CFR, Part 300).

(n) "Indian" means a member of a federally recognized Indian Tribe.

(o) "Indian Tribe" means any Indian tribe, band, nation, rancheria, pueblo, colony, or community which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(p) "Individual educational program" means a written statement for a child with a

disability that is developed in accordance with § 45.31-45.39.

(q) "In-service training" means training other than that received by an individual in a full-time program which leads to a degree.

(r) "Native language" when used with reference to a person of limited English-speaking ability, means the language normally used by that person, or in the case of a child, the language normally used by the parents of the child. In all direct contact with a child (including evaluation of the child), communication should be in the language normally used by the child and not that of the parents, if there is a difference between the two.

(s) "Parent" means a parent, a guardian, or a person acting as a parent of a child, or a surrogate parent who has been appointed in accordance with §45.56. The term "parent" is defined to include persons acting in the place of a parent, such as a grandmother or step-parent with whom a child lives, as well as persons who are legally responsible for a child's welfare.

(t) "Qualified" means that a person has met state educational agency approval or recognized certification, licensing, registration, or other comparable requirements which apply to the area in which the person is providing special education or related services.

(u) "School" means educational or residential centers funded by the Bureau offering services to Indian students under the authority of a local school board and the direction of a school supervisor. A school may be located on more than one physical site. The term school, unless otherwise specified, is meant to encompass Bureau operated schools (P.L. 95-561), Tribal contract schools (P.L. 93-638), or Tribal grant schools (P.L. 100-297). The term school shall also encompass private schools, facilities and institutions, with which the Bureau may contract for services to Indian children with disabilities.

(v) "Section 504" means section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794

(w) "Special education" means

(1) Specially designed instruction, at no cost to the parents to meet the unique needs of a child with a disability including:

(i) Instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and

(ii) Instruction in physical education.

(2) The term includes speech pathology, or any other related service, if the service consists of specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability, and is considered special education rather than a related service under the Bureau standards.

(3) The term also includes vocational education, if it consists of specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability.

(b) The terms in this definition are defined as follows:

(1) "At no cost" means that all specially designed instruction is provided without charge, but does not preclude incidental fees that are normally charged to nondisabled students or their parents as a part of the regular education program.

(2) "Physical education" is defined as follows:

(A) Physical and motor fitness;

(B) Fundamental motor skills and patterns; and

(C) Skills in aquatics, dance, and individual and group games and sports (including intramural and lifetime sports).

(ii) The term includes special physical education, adaptive physical education, movement education, and motor development.

(3) "Vocational education" means organized educational programs offering a sequence of courses that are directly related to the preparation of individuals in paid or unpaid employment in current or emerging occupations requiring other than a baccalaureate or advanced degree. Such programs shall include competency-based applied learning that contributes to an individual's academic knowledge, higher-order reasoning, and

problem-solving skills, work attitudes, general employability skills, and the occupation-specific skills necessary for economic independence as a productive and contributing member of society. Such term also includes applied technology education. § 34 CFR 300.17

(4) Each school shall ensure that the hearing aids worn by children with hearing impairments including deafness in school are functioning properly. § 34 CFR 300.303

(x) "Special Education Administrator" means the special education qualified employee at the Education Line Office who assists the Line Officer in providing executive direction by conducting over-site administrative supervision of activities regarding special education to ensure all requirements of this part are complied with by the schools within the jurisdiction of the Education Line Office as required by 34 CFR 300.380.

(y) "School supervisor" means the authorized school official, either Bureau or Tribal, who is responsible for ensuring the school is in compliance with all the requirements of this Part.

(z) "Transition services" means a coordinated set of activities for a student, designed within an outcome-oriented process that promotes movement from school to post-school activities, including post-secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation.

(1) The coordinated set of activities must be based on the individual student's needs, taking into account the student's preferences and interests; and

(2) Must include needed activities in the areas of

- (i) Instruction;
- (ii) Community experiences.
- (iii) The development of employment and other post-school adult living objectives, and

(iv) If appropriate, acquisition of daily living skills and functional vocational evaluation.

Subpart B--Identification and Evaluation of Children With Disabilities

§45.11 Child find

The Education Line Office is responsible for ensuring:

(a) That all children residing within the jurisdiction who have disabilities, regardless of the severity of their disability, and who are in need of special education and related services, are identified, located, and evaluated, including a practical method for determining which children are currently receiving needed special education and related services and which children are not currently receiving needed special education and related services.

(b) That all children with disabilities within its jurisdiction are identified, located, and evaluated, including children in all public and private agencies and institutions within that jurisdiction. Collection and use of data are subject to the confidentiality requirements of § 45.55. § 34 CFR 300.220

§45.12 Child find--elements

The Education Line Office shall ensure:

(a) A formal community survey is conducted through any effective method to identify children of all ages who may be in need of special education and related services.

(b) Child find information is regularly presented or distributed at tribal government or agency meetings, tribal fairs, chapter/ district meetings, etc.

(c) A system of in-school identification is established by which each local school supervisor or designee refers children whose academic performance, attendance, or other behavior indicates the possibility of a disabling condition for an individual evaluation.

(d) Public information articles and programs are published in local media, including announcements of times, dates, and places of free orientation workshops and free screening.

(e) Annual community-wide communication to all parents of school age children is initiated which describes the special education programs. Such communication shall emphasize the availability of programs and services for school age children.

(f) A child study team, hereafter known as CST, is established in each school consisting of the school supervisor, regular classroom teacher, and one or more qualified special education staff members. Students exhibiting academic, social, emotional, or other problems which impact their educational development will be referred to the CST. The CST team will consider and explore potential solutions to the child's problems and make recommendations for corrective action. Parents will be encouraged to participate on the Child Study Team and will receive copies of the recommendations. Generally, a child will not be referred by the school for a special education evaluation until it has been determined and documented that other available strategies or programs have not met the child's needs.

§45.14 General entry screening

Each school shall participate in a screening program for newly enrolled children and children who have not previously been screened in the school. Such screening shall be the responsibility of the school supervisor and is conducted to identify those children who need to be referred, as appropriate, to the school's child study team, or referred, for a full individual evaluation (See §45.18). The general entry screening shall consist of the following elements, appropriately adapted for use with children of his/her particular age and completed within thirty (30) days of the child's enrollment to include at a minimum:

- (a) An appropriate vision screening.
- (b) An appropriate hearing screening.

(c) A screening of the child's primary language skills;

(d) The administration by a classroom teacher of a general screening instrument to provide information regarding:

- (1) Current academic performances;
- (2) Social and emotional behavior;
- (3) Gross motor skills;
- (4) Fine motor skills;
- (5) Any observable health problems; and
- (6) The teachers impression of the need for additional evaluation.

§45.15 Periodic school screening

(a) At a minimum, schools must annually screen all students enrolled in odd numbered grades (i.e., first, third, fifth, seventh, ninth and eleventh grades) within the first thirty (30) days of enrollment.

(b) For schools using a non-graded system, the screening must occur every other year, beginning with the first level of enrollment at the school. The periodic school screening must meet the requirements set forth in §45.14. Nothing in this part exempts newly enrolled students in even numbered grades, kindergarten, or preschool from being screened as required in §45.14.

§45.16 Screening personnel

The school shall utilize personnel who are trained to do the specific screening which is being performed.

§45.17 Referrals

(a) Upon the determination of the Child Study Team that an individual evaluation is needed, the school supervisor or designee, after consultation with qualified specialists, shall within ten (10) days complete the following:

- (1) Inform the parents of the results of the implemented CST recommendations.
- (2) Explain parental rights as required in §45.51 to the parents;

(3) Attempt to obtain parental consent to perform an individual evaluation.

(4) When parental consent for an individual evaluation is obtained a formal referral must be prepared by the school according to procedures developed by the school in consultation with the Special Education Coordinator. The referral shall be forwarded to the appropriate personnel for action.

(b) Should parental consent be denied, the school may reconsider its proposal if it believes that circumstances warrant. Possible alternatives to formal evaluation such as modifications to the regular classroom program must be considered and discussed with the parent and classroom teacher. The discussion required in this part must be held within ten (10) days of formal denial of consent and any modifications agreed upon must be documented and implemented within thirty (30) days. If no agreement can be reached through these "conciliation" measures the due process procedures in § 45.57-63 shall be considered.

(c) Nothing in this part is to be interpreted as prohibiting the child's parent, teacher or school administrator from referring a child for an individual evaluation should they feel that an evaluation is needed regardless of the screening.

(d) Screening scales completed on children must be kept on file until the succeeding scale is completed. If a child is placed in a special education program, the screening results will then become a part of the child's special education file.

§45.18 Individual evaluations

Evaluation means procedures used in accordance with 45.19 to determine whether a child has a disability and the nature and extent of the special education and related services that the child needs. The term means procedures used selectively with an individual child and does not include basic tests administered to or procedures used with all children in a school, grade, or class 34 CFR 300.500.

(a) An individual evaluation must be conducted after receiving written parental consent when:

(1) The child is referred based on the CST recommendations, or

(2) Requested by the parent, teacher or administrator in writing.

(b) A student must be re-evaluated when:

(1) A disagreement occurs between the school and parent regarding a change of placement from one program to another (i.e., full-time special education to regular classroom, part-time special education to regular classroom, etc);

(2) A change is proposed for the identification of a student's disabling condition to a different condition (i.e., serious emotional disturbance disability, mental disability, to specific learning disability, etc.);

(3) A child is currently enrolled in a special education program and the last evaluation was administered three years ago;

(4) A child is being considered for removal or termination of special education services;

(5) Requested by the parent;

§45.19 Evaluation procedures

The Bureau shall ensure that each school establishes and implements procedures that meet the requirements of § 45.19.

Before any action is taken with respect to the initial placement of a child with a disability in a program providing special education and related services, a full and individual evaluation of the child's educational needs must be conducted in accordance with the requirements of §45.19.

Procedures for selecting tests and evaluation materials and procedures developed for the purpose of evaluation and placement of children with disabilities will not be racially or culturally discriminatory. Assessment instruments are to be selected based on the individual needs of each child. Assessments must be reported in such a manner as to indicate

present level of performance, other than nominal scores, to determine the need for special education and related services.

(a) Tests and other evaluation materials:

(1) Are provided and administered in the child's native language or other mode of communications, unless it is clearly not feasible to do so § 300.532(a)(1);

(2) Have been validated for the specific purpose for which they are used § 300.532 (a)(2);

(3) Are administered by trained personnel in conformance with the instructions provided by their producer § 300.532(a)(3);

(b) Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient § 300.532(b);

(c) Tests are selected and administered so as best to ensure that when a test is administered to a child with impaired sensory, manual, or speaking skills, the test results accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the child's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure) § 300.532 (c);

(d) No single procedure is used as the sole criterion for determining an appropriate educational program for a child § 300.532 (d);

(e) The evaluation is made by a multidisciplinary team or group of persons, including at least one teacher or other specialist with knowledge in the area of suspected disability § 300.532 (e);

(f) The child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities § 300.532(f);

(g) All tests and evaluation materials and procedures utilized for the purposes of evaluation and placement of children with disabilities will be selected and administered so as not to be

racially or culturally discriminatory. Specialists implementing evaluation procedures must be familiar with local, cultural, language, and social patterns and practices. Interpreters, in the Native language and/or sign language may be used throughout all phases of the evaluation. Any accommodations used must be noted on protocols and reports.

(h) Each qualified specialist providing an evaluation component shall:

(1) Give a professional individualized evaluation in the context of the child's physical, developmental, social and educational history and current circumstances; and

(2) Write a report based on the results of the evaluation. The report shall include a diagnostic impression and specific recommendations.

(i) Evaluations shall be conducted in educationally related areas to verify a child's suspected need for special education. Evaluations shall be accomplished through coordination with the school supervisor and the Special Education Coordinator when appropriate.

§45.20 Individual evaluation objectives

The objectives of individual evaluation are to:

(a) Determine whether the child has a disability.

(b) Diagnose and evaluate the nature and extent of the effect of such impairment or condition on the educational performance of the child; and

(c) Assess the need for special education and related services and to recommend intervention strategies.

§45.21 Formation of multi-disciplinary evaluation teams

(a) The school supervisor will be responsible for the overall conduct of the individual evaluation to ensure all pertinent information regarding the child is collected and reviewed.

(b) The school supervisor and/or designee, and if appropriate the Special Education Administrator, shall coordinate the selection of the multi-disciplinary evaluation team for the conduct of the evaluation

§45.22 Composition of multi-disciplinary evaluation teams

The multi-disciplinary evaluation team shall be composed of qualified persons appropriate to complete an evaluation of the suspected disability. In all cases the classroom teacher (or other instructional staff member (familiar with the child and a person knowledgeable with respect to the suspected disability must be included on the team.

§45.23 Content of individual evaluations.

Each child shall be evaluated in all areas related to the suspected disability, including if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communication status, and motor abilities. Re: 34 CFR 300.532(f).

Each individual evaluation shall include, if appropriate:

(a) A health evaluation by a qualified health practitioner which includes:

- (1) Present and past medical review;
- (2) Physical examination;
- (3) Current existing medical conditions and prescribed treatment(s);

(4) Vision and hearing screening results with additional evaluations, if necessary

(b) A statement of the child's social and emotional status in relationship with groups, peers, and adults based on formal and informal assessment instruments.

(c) An evaluation by a psychologist which includes:

(1) An individually appropriate psychological examination to determine general functioning level, including the child's developmental and social history, culminating in

specific diagnostic impressions and recommendations,

(2) An observation of the child in familiar surroundings such as a classroom or home;

(3) The evaluation shall address, when appropriate, such skills as perception, attention, cognitive, attitude, interpersonal, behavior, language, motor, and vocational in regard to the child's interactions with the educational and/home contact.

(d) An evaluation of the child's educational status which includes:

(1) A history of the child's prior evaluations;

(2) A statement of the child's school attendance pattern;

(3) The child's current academic achievement and aptitude test scores;

(4) A statement of the child's current academic performance in the classroom or school readiness skills;

(5) A statement of the previous education strategies, as recommended by the CST, used to remediate the child's educational needs;

(6) A description of the child's academic strengths that promote learning.

(e) A statement of the child's communication status. Children who are suspected of having a speech or language impairment as their primary disability, may not need a complete battery of evaluations (e.g., psychological, physical, or adaptive behavior). However, a qualified speech-language pathologist shall:

(1) Evaluate each speech or language impaired child using procedures that are appropriate for the diagnosis and appraisal of speech and language disorders; and

(2) Where necessary, make referrals for additional assessment needed to make an appropriate placement decision.

(f) A description of the child's motor abilities that adversely effect the educational process;

(g) Children who are suspected of having an orthopedic impairment shall be evaluated by

a medical physician who shall provide a statement documenting such diagnosis; .

(h) Children who are suspected of being seriously emotionally disturbed shall be referred to a clinical psychologist or psychiatrist for a clinical evaluation upon the completion of the psychoeducational evaluation. The clinical evaluation shall include documentation regarding maladaptive behaviors or deficits in coping skills and emotional functioning. The behavioral-emotional evaluation shall include information about the unique personal attributes of the student and describe any distinctive patterns of behavior which characterize the student's personal feelings, attitudes, moods, perceptions, thought processes, and significant personality traits. The evaluations shall include:

(1) interviews with student, appropriate staff, and others;

(2) checklists or rating scales; and

(3) screening data which includes dated and signed documentation of interventions attempted in the learning environment in order to make behavioral and academic achievement possible within the regular educational setting; and the effect of each of the student's behavior. Those interventions should be developed in consultation with other staff members and may include but not be limited to changes in the student's class schedule, curriculum, teachers, instructional techniques, and interventions by student services personnel; and community interventions;

(4) behavioral observation(s) in the learning environment by an appropriate third party which specifically records the incidence(s) and describes the nature of the behavior(s) which lead to the referral;

(5) behavioral observation by the psychologist with special consideration given to evaluation of disorders of thought, memory, judgment, and/or time-place orientation as appropriate.

(6) documentation of child's learning history and a records review.

(i) Determination of mental retardation shall be based on an evaluation of a variety of

factors including, adaptive behavior and the history of developmental activities (e.g., indices or manifestations of social, intellectual, adaptive, verbal, motor, language, emotional and self-care development);

(j) Children, age 16 and older (and, when determined appropriate for the individual, beginning at age 14) shall be given a vocational needs assessment, taking into account the students' preferences and interests. Such assessment shall include information regarding competency based applied learning skills, higher order reasoning and problem solving skills, general employability skills, and the occupation specific skills necessary for economic independence as a productive and contributing member of society.

(k) The evaluation to determine eligibility for traumatic brain injured programs shall include:

(1) Psychological evaluation:

For the purpose of making educational programming and placement decisions, a psychological evaluation for traumatic brain injury includes but is not limited to the evaluations of intellectual and academic functioning, memory, reasoning, behavior, attention/concentration, cognitive processing (e.g., perceptual, auditory, kinesthetic, and tactile), and social/emotional functioning. Psychological evaluations for traumatic brain injury must be conducted by psychologists who are licensed in the specialty of neuropsychology. All psychological evaluations for traumatic brain injury must be current within one year.

(2) Educational evaluation:

The evaluation shall include but not be limited to an assessment of the following areas:

(i) the learning environment including curriculum and task demands;

(ii) present level of academic functioning, including strengths and weaknesses;

(iii) present level of academic functioning compared to academic functioning prior to the traumatic brain injury;

(3) Medical history:

A medical history shall be obtained by a licensed physician, or other competent professional. The medical history shall include a review of the student's current health status, as well as documentation of injuries, diseases, or medical conditions which may have resulted in, or contributed to, traumatic brain injury:

- (4) Motor evaluation;
- (5) Speech/language evaluation;
- (6) Evaluation of vision and hearing processes typically affected by traumatic brain injury (e.g., visual field-cuts, neurologically based hearing impairments, etc.)

Those students with non-traumatic brain injury (e.g., tumor, vascular/circulatory disorders, degenerative diseases, etc.) should be considered for assessment as stated above.

(1) Children suspected of being autistic shall receive complete medical, neurological, and audiological evaluations in addition to hearing, speech-language, vision, review of early history, adaptive behavior, educational, and psychological evaluations.

§45.24 Placement procedures

(a) In interpreting evaluation data and in making placement decisions, each school shall:

(1) Draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior;

(2) Ensure that information obtained from all of these sources is documented and carefully considered;

(3) Ensure that the placement decision is made by a group of persons, including persons knowledgeable about the child, the meaning of the evaluation data, and the placement options, and

(4) Ensure that the placement decision is made in conformity with the LRE rules in §45.35.

(b) If a determination is made that a child has a disability and needs special education and related services, an IEP must be developed for

the child in accordance with §45.30-45.49. § 34 CFR 300.533

(c) Child's status during proceedings.

(1) During the pendency of any administrative or judicial proceeding regarding a complaint, unless the public agency and the parents of the child agree otherwise, the child involved in the complaint must remain in his or her present educational placement.

(2) If the complaint involves an application for initial admission to the school, the child, with the consent of the parents, must be placed in the school program until the completion of all the proceedings.

(3) Section 45.24 does not permit a child's placement to be changed during a complaint proceeding, unless the parents and agency agree otherwise. While the placement may not be changed, this does not preclude the agency from using its normal procedures for dealing with children who are endangering themselves or others. § 34 CFR 300.513

§45.25 Location of evaluation.

(a) The evaluation shall take place in the school or at another facility which is jointly approved by the child's parents and school officials.

(b) When a child has been referred for an evaluation and, at the time of such referral, such child is in a hospital or is otherwise living away from home the school shall make appropriate arrangements for the provision of the evaluation.

§45.26 Multi-disciplinary evaluation team procedures

The evaluation must be made by a multi-disciplinary team or group of persons, including at least one teacher or other specialist with knowledge in the area of suspected disability.

(a) Each individual evaluation must be completed, with full attention to its comprehensiveness and thoroughness, within thirty days from the date of written parental consent. An extension of time of thirty

additional days may be approved in writing by the Education Line Officer after written documentation by the school that unusual circumstances exist preventing completion of the individual evaluation in the specified time. No more than one extension may be approved in connection with a single individual evaluation unless approved in writing by the Director, or designee.

(b) The comprehensive evaluation must reflect a compilation of information drawn from different evaluation sources. The depth of the evaluation in each area will vary based on the initial review of screening information conducted by the school supervisor.

(c) The school Supervisor is responsible for ensuring that full and complete records of information collected or generated in connection with an individual evaluation are maintained. The Special Education Administrator is responsible for conducting a review of the individual files to ensure compliance of this Part is maintained. A report, in addition to individual specialists' reports §45.19(f)(2), setting forth a full written explanation of the findings and the recommendations made by the multi-disciplinary evaluation team must be prepared. The report must include:

(1) A narrative description of the child's present level of functioning, including but not limited to test scores;

(2) A description of the needs of the child in rank order of importance;

(3) Recommendations of the types of services needed;

(4) A written summary of the procedures employed, the results, and the diagnostic impression;

(5) A proposed date for the review of the child's progress prior to the review required in § 45.37, if such evaluation so indicates, and

(6) Criteria by which at that time the effectiveness of the child's program may be determined.

(d) Each member of the multi-disciplinary, evaluation team shall certify in writing whether the report prepared by the team

reflects his or her conclusions, and if not, shall submit a separate statement presenting his or her conclusions. The report must be prepared no later than fifteen (15) days after completion of the evaluation.

(e) Members of the multi-disciplinary evaluation team must be responsible for all aspects of the individual evaluation including; the selection, administration, and interpretation of evaluation materials; the collection of all appropriate social, cultural, and adaptive behavior information; and the maintenance of confidentiality of information collected during the individual evaluation.

§45.27 Emergency evaluation and placement

(a) Where a child with disabilities demonstrates documented instances of behavior so disruptive that the education of others is impaired, the school may determine appropriate handling of the situation through normal in-school disciplinary procedures. Such procedures may include the use of study carrels, timeouts, detention, or the restriction of privileges. Such in-school procedures should be part of the child's IEP including reasonable access to the child's special education teacher. The school supervisor shall inform the parent immediately of the child's inappropriate behavior and allow the parent to participate (if possible within the constraints of time) in the disciplinary actions. Re-evaluations procedures of § 45.38 shall be initiated to determine if change in placement is needed. If additional disciplinary actions are required, the procedures stated in § 45.44 shall be followed.

§45.28 Additional procedures for evaluating specific learning disabilities

(a) In evaluating a child suspected of having a specific learning disability in addition to the requirements of §45.23, each member shall include on the multi-disciplinary evaluation team:

(1) The child's regular teacher

(2) If the child does not have a regular teacher, a regular classroom teacher qualified to teach a child of his or her age; and

(3) At least one person qualified to conduct individual diagnostic examinations of children, such as a school psychologist, speech-language pathologist, or remedial reading teacher.

(b) At least one team member other than the child's regular teacher shall observe the child's academic performance in the regular classroom setting.

(c) The team may only determine that a child has a specific learning disability if:

(1) The child does not achieve commensurate with his or her age and ability levels in one or more of the areas listed in paragraph (c)(2) of this section, when provided with learning experiences appropriate for the child's age and ability levels; and

(2) The team finds that a child has a severe discrepancy between achievement and intellectual ability in one or more of the following areas:

- (i) Oral expression;
- (ii) Listening comprehension,
- (iii) Written expression;
- (iv) Basic reading skill;
- (v) Reading comprehension,
- (vi) Mathematics calculation; or
- (vii) Mathematics reasoning.

(d) The multi-disciplinary team may not identify a child as having a specific learning disability if the severe discrepancy between ability and achievement is primarily the result of

(1) A visual, hearing, or motor impairment;

(2) Mental retardation;

(3) Emotional disturbance, or

(4) Environmental, cultural or economic disadvantage.

(e) The multi-disciplinary team shall prepare a written report in addition to individual specialist reports §45.19 outlining the results of the evaluation. The report must include a statement of:

(1) Whether the child has a specific learning disability;

(2) The basis for making the determination;

(3) The relevant behavior noted during the observation of the child;

(4) The relationship of that behavior to the child's academic functioning;

(5) The educationally relevant medical findings, if any;

(6) Whether there is a severe discrepancy between achievement and ability that is not correctable without special education and related services; and

(7) The determination of the team concerning the effects of environmental, cultural, or economic disadvantage.

(f) Each team member shall certify in writing whether the report reflects his or her conclusion. If it does not reflect his or her conclusion, the team member must submit a separate statement presenting his or her conclusion. The report must be prepared no later than fifteen (15) days after completion of the evaluation. Re: 34 CFR 300.541 - 300.543.

§45.29 Independent educational evaluation

(a) General.

(1) The parents of a child with a disability have the right under this part to obtain an independent educational evaluation of the child, subject to paragraphs(b) through (e) of this section.

(2) Each school shall provide to parents, on request, information about where an independent educational evaluation may be obtained.

(3) For the purposes of this part

(i) "Independent educational evaluation" means an evaluation conducted by a qualified examiner who is not employed and/or contracted by the school responsible for the education of the child in question.

(ii) "Public Expense" means that the school either pays for the full cost of the evaluation or ensures that the evaluation is

otherwise provided at no cost to the parent and is consistent with § 45.30.

(b) Parent right to evaluation at public expense. A parent has the right to an independent education evaluation at public expense if the parent disagrees with an evaluation obtained by the school. However, the school may initiate a hearing in accordance with § 45.58 to show that its evaluation is appropriate. If the final decision is that the evaluation is appropriate, the parent still has the right to an independent educational evaluation, but not at school expense.

(c) Parent initiated evaluations. If the parent obtains an independent educational evaluation at private expense, the results of the evaluation:

(1) Must be considered by the school in any decision made with respect to the provision of a free appropriate public education to the child; and

(2) May be presented as evidence at a hearing under this subpart regarding that child.

(d) Requests for evaluations by hearing officers. If a hearing officer requests an independent educational evaluation as part of a hearing, the cost of the evaluation must be at school expense.

(e) Whenever an independent evaluation is at school expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria which the school uses when it initiates an evaluation. § 34 CFR 300.503

Subpart C--Provision of Special Education and Related Services

§45.30 Free appropriate public education

(a) Each Bureau funded school shall ensure that a free appropriate public education is provided to every child with disabilities enrolled in the school between the ages of five (5) and twenty-one (21) years.

(b) An appropriate education is one which meets the needs of a child with disabilities as set forth in the individual education program in the least restrictive educational setting. An appropriate education involves the provision of regular education, special education and related aids or services.

(c) The provision of a free education is the provision of educational and related services without cost to the child (or parents), except for those fees that are imposed on a non-disabled child, and may consist of the provision of free services or the payment of the costs of the program. Transportation must be provided in order to assure access of persons to services.

(d) The Bureau may use whatever sources of support are available to meet the requirements of this part. For example, when it is necessary to place a child with a disability in a residential facility, the Bureau could use joint agreements between the agencies involved for sharing the cost of that placement.

(e) Nothing in this part relieves an insurer or similar third party from an otherwise valid obligation to provide or to pay for services provided to a child with a disability. § 34 CFR 300.301

§45.31 Individualized education program (IEP)

If, as a result of the determination of the multi-disciplinary evaluation team, a child is diagnosed as having a disability and in need of special education and related services, the school is required to develop an IEP within thirty (30) days from the date of receipt of the written individual evaluation report. The IEP shall set forth the approach which will be taken to ensure that the child will be provided a free, appropriate education.

(a) Definitions.

(1) As used in this part, the term "individualized education program" means a written statement for a child with a disability that is developed and implemented in accordance with § 45.31-45.44.

(2) "Participating agency" means a Bureau, State, or local agency, other than the school, which is responsible for providing transition services to the student. § 34 CFR 300.340

(b) Bureau responsibility

(1) The Bureau shall ensure that each school develops and implements an IEP for each of its children with disabilities.

(2) Private schools and facilities. The Bureau shall ensure that an IEP is developed and implemented for each child with a disability who:

(i) Is placed in or referred to a private school or facility.

(c) IEPs must be in effect,

(1) At the beginning of each school year, each school shall have in effect an IEP for every child with a disability who is receiving special education.

(2) Before special education and related services are provided to a child.

(d) IEP services are to be implemented immediately following the IEP meeting. An exception to this would be when the meetings occur during the summer or a vacation period, or where there are circumstances that require a short delay (e.g., working out transportation arrangements). However, there can be no undue delay in providing special education and related services to the child. § 34 CFR 300.342

(e) The Special Education Administrator will conduct a review of the special education student files for compliance of this Part

(f) If the school cannot, within thirty (30) days, provide any or all of the services called for in the IEP, the school shall consult with the Special Education Administrator to determine alternate means of providing the services to fully implement the IEP.

§45.32 Meetings

(a) Each school is responsible for planning and conducting meetings for the purpose of developing, reviewing, and revising the IEP of a child with a disability.

(b) A meeting to develop an IEP for a child with disabilities must be held within 30 calendar days of a determination that the child needs special education and related services.

(c) Each school shall initiate and conduct meetings to review each child's IEP periodically and, if appropriate, revise its provisions. A meeting must be held for this purpose at least once a year. § 34 CFR 300.343

(d) Notice of the IEP meetings shall be in accordance with § 45.51.

§45.33 Participants in meetings

(a) The composition of the IEP team may differ from the multi-disciplinary evaluation team. The school shall ensure that each meeting includes the following participants:

(1) A representative of the school, other than the child's teacher, who is qualified to provide, or supervise the provision of, special education. This person shall chair the meeting;

(2) The child's teacher;

(3) One or both of the child's parents;

(4) The child, when appropriate;

(5) Other individuals at the discretion of the parent, or school.

(b) Evaluation personnel. For a child with a disability who has been evaluated for the first time, the school shall ensure:

(1) That a member of the evaluation team participates in the meeting, or

(2) That the representative of the school, the child's teacher, or some other person is present at the meeting, who is knowledgeable about the evaluation procedures used with the child and is familiar with the results of the evaluation.

(c) Transition services participants. If a purpose of the meeting is the consideration of transition services for a student, the school shall invite:

(1) The student; and

(2) A representative of any other agency that is likely to be responsible for providing or paying for transition services;

(3) If the student does not attend, the school shall take other steps to ensure that the student's preferences and interests are considered; and

(4) If an agency invited to send a representative to a meeting does not do so, the school shall take other steps to obtain the participation of the other agency in the planning of any transition services. § 34 CFR 300.344

(d) Parent participation. Each school shall take steps to ensure that one or both of the parents of the child with a disability are present at each IEP meeting including or are afforded the opportunity to participate, including:

(1) Notifying parents of the meeting early enough to ensure that they will have an opportunity to attend and participate; and

(2) Scheduling the meeting at a mutually agreed upon time and place.

(e) The notice under paragraph (d)(1) of this section must indicate the purpose, time, and location of the meeting, and who will be in attendance;

(2) If the purpose of the meeting includes consideration of transition services for a student, the notice must also:

(i) Indicate this purpose;

(ii) Indicate that the student will be invited; and

(iii) Identify any other agency that will be invited to send a representative.

(f) If neither parent can attend, the school shall use and document other methods to ensure parent participation, including individual or conference telephone calls or home visits

(g) A meeting may be conducted without a parent in attendance if the school is unable to convince the parents that they should attend. In this case the school must have a record of its attempts to arrange a mutually agreed on time and place such as:

(1) Detailed records of telephone calls made or attempted and the results of those calls,

(2) Copies of correspondence sent to the parents and any responses received, and

(3) Detailed records of visits made to the parent's home and the results of those visits.

(h) The school shall take whatever action is necessary to ensure that the parent understands the proceedings at a meeting, including arranging for an interpreter for parents who are deaf or whose Native language is other than English.

(i) The school shall give the parent, on request, a copy of the IEP. Re § 34 CFR 300.345

§45.34 Content of individualized education program (IEP)

(a) The IEP for each child must include:

(1) A description of the child's present levels of educational performance (not limited to test scores);

(2) A statement of annual goals, including short-term instructional objectives;

(3) A statement of the special education and related services to be provided to the child, and the extent to which the child will be able to participate in regular education programs;

(4) The projected dates for initiation of services and the anticipated duration of the services;

(5) Appropriate objective criteria and evaluation procedures and schedules for determining, on at least an annual basis, whether the short term instructional objectives are being achieved;

(6) A description of the nature and duration of specially designed or adaptive physical education services to be provided, including related goals and objectives; and

(7) A statement that all services recommended by the IEP team are being provided.

(b) Transition services

(1) The IEP for each student, beginning no later than age 16 (and at a younger age if appropriate), must include a statement of the needed transition services including if appropriate, a statement of each public agency's and each participating agency's responsibilities or

linkages, or both, before the student leaves the school setting.

(2) If the IEP team determines that services are not needed in one or more of the areas specified in §45.5, the IEP must include a statement to that effect and the basis upon which the determination was made. 34 CFR 300.346

(c) Agency responsibilities for transition services:

(1) If a participating agency fails to provide agreed-upon transition services contained in the IEP of a student with a disability, the public agency responsible for the student's education shall, as soon as possible, initiate a meeting for the purpose of identifying alternative strategies to meet the transition objectives and, if necessary, revising the student's IEP.

(2) Nothing in this part relieves any participating agency, including a State vocational rehabilitation agency, of the responsibility to provide or pay for any transition service that the agency would otherwise provide to students with disabilities who meet the eligibility criteria of that agency.

§ 34 CFR 300.347

(d) IEP-Accountability.

(1) Each school must provide special education and related services to a child with a disability in accordance with an IEP. However, Part B of the Act does not require that any agency, teacher, or other person be held accountable if a child does not achieve the growth projected in the annual goals and objectives.

§45.35 Least restrictive environment

(a) The Bureau shall ensure that each school establishes and implements procedures that meet the requirement of § 45.35

(b) Each school shall ensure:

(1) That to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are nondisabled; and

(2) That special classes, separate schooling or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. §34 CFR 300.550

(c) That a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services.

(d) The continuum required in paragraph (c) of this section must:

(1) Include the alternative placements of regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions;

(2) Make provision for supplementary services (such as resource room or itinerant instruction) to be provided in conjunction with regular class placement. § 34 CFR 300.551

(e) The educational placement of each child with a disability:

(1) Is determined at least annually;

(2) Is based on the IEP; and

(3) Is as close as possible to the child's home.

(f) The various alternative placements included in this part are available to the extent necessary to implement the IEP for each child with a disability.

(g) Unless the IEP of a child with a disability requires some other arrangement, the child is educated in the school that he or she would attend if nondisabled.

(h) In selecting the LRE, consideration is given to any potential harmful effect on the child or on the quality of services that he or she needs. § 34 CFR 300.552

(i) The overriding rule in this section is that placement decisions must be made on an individual basis.

(j) The analysis of the regulations for Section 504 of the Rehabilitation Act of 1973 (34 CFR part 104-Appendix, Paragraph 24) includes several points regarding educational

placements of children with disabilities that are pertinent to this section:

(1) With respect to determining proper placements, the analysis states: ".... it should be stressed that, where a handicapped child is so disruptive in regular classroom that the education of other students is significantly impaired, the needs of the handicapped child cannot be met in that environment. Therefore regular placement would not be appropriate to his or her needs"

(2) With respect to placing a child with a disability in an alternative setting, the analysis states that among the factors to be considered in placing a child is the need to place the child as close to home as possible. Recipients are required to take this factor into account in making placement decisions. The parents' right to challenge the placement of their child extends not only to placement in special classes or separate schools, but also to placement in a distant school, particularly in a residential program. An equally appropriate education program may exist closer to home; and this issue may be raised by the parent under the due process provisions of this subpart. § 34 CFR 300.552

(k) Schools may not decline placement of a child with a disability or recommend to parents that a child be enrolled "voluntarily" in another school. No child with a disability may be placed in any alternative setting unless it can be demonstrated that the nature or severity of the child's disability is such that education in regular class (with the use of supplementary aids and services) cannot be achieved satisfactorily

(l) Placement of a child with a disability in a boarding school operated by the Bureau which concurrently enrolls non-disabled children of the same age and grade shall be considered a placement in a regular school campus

(m) If the IEP team determines that an alternative placement is appropriate to meet the individual needs of the child, the school (with the exceptions residential placements) may make such placements, through cooperative arrangements with local and state education

agencies. Alternative placements through cooperative arrangements with local and state education agencies may not be provided if there is a sufficient number of children with disabilities of similar educational need who live within the attendance area to justify the allocation of one teacher.

(n) Alternative homebound placements may be selected only when the child with a disability:

(1) Currently possesses a disability or illness which because of treatment required prohibits for health and safety reasons, the provision of programs and services in the education environment;

(2) Has been determined (after an individual evaluation) to require a program or continuous mental health care and treatment which would be seriously disrupted by movement to the regular educational environment. The proposed homebound instruction should permit the return of the child to the regular education environment at a specified date.

(o) Technical assistance and training activities. The Bureau shall carry out activities to ensure that teachers and administrators in all schools:

(1) Are fully informed about their responsibilities for implementing LRE requirements; and

(2) Are provided with technical assistance and training necessary to assist them in this effort. The Special Education Administrators shall provide such training and technical assistance. § 34 CFR 300.555

(p) Monitoring activities. The Bureau shall carry out activities to ensure that the LRE is implemented by each school.

(1) If there is evidence that a school makes placements that are inconsistent with the LRE rule, the Bureau shall:

(i) Review the school's justification for its actions; and

(ii) Assist in planning and implementing any necessary corrective action. § 34 CFR 300.556

§45.36 Residential placement

(a) If placement in a public or private residential program is necessary to provide special education and related services to a child with a disability, the program, including non-medical care and room and board, must be at no cost to the parents of the child. This requirement applies to placements that are made by schools for educational purposes, and includes placements in State-operated schools for children with disabilities, such as a State school for students with deafness or students with blindness. § 34 CFR 300.302

(b) The Bureau shall make arrangements with public and private institutions (such as a memorandum of agreement or special implementation procedures), as may be necessary to ensure that § 45.35 is effectively implemented. § 34 CFR 300.554

(c) Private school placements by the schools.

(1) Developing individualized education programs. Before a school places a child with a disability in, or refers a child to, a private school or facility, the school shall initiate and conduct a meeting to develop an IEP for the child in accordance with § 45.32-45.33.

(2) The school shall ensure that a representative of the private school or facility attends the meeting. If the representative cannot attend, the school shall use other methods to ensure participation by the private school or facility, including individual or conference telephone calls.

(d) Reviewing and revising individualized education programs.

(1) After a child with a disability enters a private school or facility, any meetings to review and revise the child's IEP may be initiated and conducted by the private school or facility at the discretion of the school.

(2) If the private school or facility initiates and conducts these meetings, the school shall ensure that the parents and the participating agencies representatives:

(i) Are involved in any decision about the child's IEP; and

(ii) Agree to any proposed changes in the program before those changes are implemented.

(e) Responsibility.

(1) Even if a private school or facility implements a child's IEP, responsibility for compliance with the part remains with the school and the Bureau. § 34 CFR 300.348

(f) Bureau procedures for residential placements.

(1) Before a school refers a child to a private school or facility, the school shall schedule an IEP meeting and invite the Special Education Administrator, representatives from participating agencies (IHS and Social Services), and participants identified in § 45.33 as appropriate.

(2) The school shall ensure that a representative of the private school or facility attends the meeting. If the representative cannot attend, the school shall use other methods to ensure participation by the private school or facility, including individual or conference telephone calls.

(3) If the IEP team determines that the most appropriate LRE placement is a private school or facility, the Special Education Administrator shall notify, in writing, the Bureau Education Specialist for Institutional Placement. Upon receipt of such notice, it shall be determined by the Education Line Officer, the Special Education Administrator, and the Education Specialist for Institutional Placement, that the placement is in compliance with federal laws regarding the education of children with disabilities.

(g) Children with disabilities in private schools placed or referred by agencies.

(1) This section applies only to children with disabilities who are or have been placed in or referred to a private school or facility by a Bureau funded school as a means of providing special education and related services.

(h) Responsibility of the Bureau. The Bureau shall ensure that a child with a disability

who is placed in or referred to a private school or facility by a school:

(1) Is provided special education and related services:

(i) In conformance with an IEP that meets the requirements of § 45.34;

(ii) At no cost to the parents; and

(iii) At a school or facility that meets the standards that apply to the Bureau and the school (including the requirements of this part); and

(2) Has all of the rights of a child with a disability who is served by a Bureau fund school. § 34 CFR 300.401

(i) Implementation by the Bureau. In implementing this part, the Bureau shall:

(1) Monitor compliance through procedures such as written reports, on-site visits, and parent questionnaires; and

(2) Disseminate copies of applicable standards to each private school and facility to which a school has referred or placed a child with a disability. § 34 CFR 300.402

(j) Children with disabilities in private schools placed by parents.

(1) If a child with a disability has available a free appropriate public education and the parents choose to place the child in a private school or facility, the school is not required by this part to pay for the child's education at the private school or facility.

(2) Disagreements between a parent and a school regarding the availability of a program appropriate for the child, and the question of financial responsibility, are subject to the due process procedures under § 45.57 through 45.63

§ 45.37 IEP revision, review of placement

The IEP must be reviewed and updated at least annually. Whenever possible, the review shall be scheduled near the time that there may be a change in the personnel providing the major services to the child under the IEP, as when the child is to move from one grade or school to another. The IEP review shall be conducted as follows:

(a) The school shall invite (in writing) the child's parents and, when appropriate, the child, to attend and participate in the review meeting in accordance with § 45.32-45.33.

(b) The IEP team shall meet and make a careful review of the child's progress based upon the progress reports submitted by the school during the grading periods, and the observations of those working with the child.

(c) The participants in the review meeting shall determine:

(1) Whether the child has achieved the goals and objectives set forth in the IEP;

(2) Whether the child has met the criteria that indicate readiness to enter a less restrictive environment as provided in § 45.35;

(3) Whether the placement the child is in should be specifically modified to meet the child's needs; and

(4) Whether it is appropriate to refer the child for an individual re-evaluation.

(d) The participants in the review meeting shall review the current IEP and revise it as appropriate in accordance with § 45.34. If re-evaluation of the child is scheduled in accordance with § 45.38, the revision of the new IEP shall be deferred until completion of the re-evaluation.

(e) During the annual review, the description of current educational performance in the IEP must be updated and the overall educational needs, long-term educational goals, short-term objectives, and related services modifications made. Schools are required to rewrite sections of the IEP only to the extent necessary to update or modify the program.

(f) Determinations of need for extended school services must be made on an individual basis, and determinations of eligibility rest with a child's IEP team in accordance with § 45.39

(g) Minutes of the IEP meeting should be carefully recorded. The minutes should include discussion of all participants. The minutes may be used for informal documentation to justify the reasons why services are or are not to be provided.

§45.38 Re-evaluation

The Bureau and the schools shall ensure.

(1) That the IEP of each child with a disability is reviewed in accordance with § 45.30-37.

(2) That an evaluation of the child, based on procedures that meet the requirement of § 45.19 is conducted every three years, or more frequently if conditions warrant, or if the child's parent or teacher requests an evaluation. §34 CFR 300.534

(3) Any changes in the child's special education program after the initial placement are not subject to the parental consent requirements in § 45.52, but are subject to the prior notice requirements of § 45.51. Notice of the conduct of the re-evaluation must be provided to the parent prior to re-evaluation. A written summary of the re-evaluation must be provided to the parents within a reasonable time of the scheduled review meeting. A child with disabilities must be re-evaluated at least every three (3) years.

§45.39 Extended school year services

(a) The IEP may provide for continuous or extended instruction (uninterrupted by regular school recess) whenever:

(1) Continuous instruction is likely to be necessary in order to sustain, with only minor regression, current important educational skills and information retention; or

(2) The child lives in a residential facility or institution.

(b) The extension of an IEP beyond the normal school day or school year shall not result in a more restrictive change in placement on the continuum of alternative placements nor shall it constitute a basis for any deviation from any other educational placement requirement of §45.35 of this part. However, the increased isolation of children with disabilities which could result from the operation of an instructional program for children with disabilities during a period of time when non-disabled children are

not attending school would not violate any requirements of this part.

§45.40 Completion of education program

(a) IEPs for children over the age of sixteen (16) years (and younger, if appropriate) shall contain, as appropriate, either a description of regular and/or special education instructional services leading to the attainment of a regular high school diploma before the age of twenty-two or a program of regular or special vocational education leading to participation in a work experience (or sheltered employment) program and the attainment of an appropriate level of vocational proficiency to permit, whenever possible, the child's entry into competitive employment upon, or before, reaching the age of twenty-two.

(b) If a child with disabilities is expected to receive a diploma and graduate, the parents must be provided notice as in a change of educational placement situation (§45.51).

(c) If the IEP of a child with disabilities contains a statement of transition services, and any participating agency fails to provide agreed-upon transition services contained in the IEP of a student with a disability, the school shall, as soon as possible, initiate a meeting for the purpose of identifying alternative strategies to meet the transition objectives and, if necessary, revise the student's IEP. No agency responsible for payments of transition services is excused from providing transition services by operation of this part when the agency is otherwise responsible for providing services to students with disabilities who meet the eligibility criteria of that agency.

§45.41 Related services

(a) As used in this part, the term "related services" means transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education, as provided in the IEP and includes speech

pathology and audiology, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and assessment of disabilities in children, counseling services, including rehabilitation counseling and medical services for diagnostic or evaluation purposes. The term also includes school health services, social work services in schools, and parent counseling and training.

(b) The terms used in this definition are as follows:

(1) "Audiology" includes:

(i) Identification of children with hearing loss;

(ii) Determination of the range, nature, and degree of hearing loss, including referral for medical or other professional attention for the habilitation of hearing;

(iii) Provision of habilitative activities, such as language habilitation, auditory training, speech reading (lip reading), hearing evaluation, and speech conservation,

(iv) Creation and administration of programs for prevention of hearing loss;

(v) Counseling and guidance of pupils, parents, and teachers regarding hearing loss; and

(vi) Determination of the child's need for group and individual amplification, selecting, and fitting an appropriate aid, and evaluating the effectiveness of amplification.

(2) "Counseling services" means services provided by qualified social workers, psychologists, guidance counselors, or other qualified personnel.

(3) "Early identification and assessment of disabilities in children" means the implementation of a formal plan for identifying a disability as early as possible in a child's life.

(4) "Medical services" means services provided by a licensed physician to determine a child's medically related disability that results in the child's need for special education and related services.

(5) "Occupational therapy" includes

(i) Improving, developing or restoring functions impaired or lost through illness, injury, or deprivation;

(ii) Improving ability to perform tasks for independent functioning when functions are impaired or lost; and

(iii) Preventing, through early intervention, initial or further impairment or loss of function.

(6) "Parent counseling and training" means assisting parents in understanding the special needs of their child and providing parents with information about child development.

(7) "Physical therapy" means services provided by a qualified physical therapist.

(8) "Psychological services" includes:

(i) Administering psychological and educational tests, and other assessment procedures;

(ii) Interpreting assessment results;

(iii) Obtaining, integrating, and interpreting information about child behavior and conditions relating to learning;

(iv) Consulting with other staff members in planning school programs to meet the special needs of children as indicated by psychological tests, interviews, and behavioral evaluations; and

(v) Planning and managing a program of psychological services, including psychological counseling for children and parents.

(9) "Recreation" includes:

(i) Assessment of leisure function,

(ii) Therapeutic recreation services,

(iii) Recreation programs in schools and community agencies; and

(iv) Leisure education.

(10) "Recreation counseling services" means services provided by qualified personnel in individual or group sessions that focus specifically on career development, employment preparation, achieving independence, and integration in the work place and community of a student with a disability. The term also includes vocational rehabilitation services provided to students with disabilities by vocational rehabilitation programs funded under the Rehabilitation Act of 1973, as amended.

(11) "School health services" means services provided by a qualified school nurse or other qualified person.

(12) "Social work services in schools" includes:

(i) Preparing a social or developmental history on a child with a disability;

(ii) Group and individual counseling with a child and family;

(iii) Working with those problems in a child's living situation (home, school, and community) that affect the child's adjustment in school; and

(iv) Mobilizing school and community resources to enable the child to learn as effectively as possible in his or her educational program.

(13) "Speech pathology" includes:

(i) Identification of children with speech or language impairments;

(ii) Diagnosis and appraisal of specific speech or language impairments;

(iii) Referral for medical or other professional attention necessary for the habilitation of speech or language impairments;

(iv) Provision of speech and language services for the habilitation or prevention of communicative impairments; and

(v) Counseling and guidance of parents, children, and teachers regarding speech and language impairments.

(14) "Transportation" includes:

(i) Travel to and from school and between schools;

(ii) Travel in and around school buildings, and

(iii) Specialized equipment (such as special and adapted buses, lifts, and ramps), if required to provide special transportation for a child with a disability. § 34 CFR 300.16

§45.42 Non-academic and extracurricular services

(a) Non-academic and extracurricular services and activities must be offered in a way which allows equal opportunity for children with

disabilities to participate in services and activities.

(b) Non-academic and extracurricular services, including meals, recess periods, counseling services, athletics, transportation, health services, employment, recreational activities, special interest groups or clubs sponsored by the school, must be provided in the most integrated setting appropriate to the needs of the child. § 34 CFR 300.553

(c) Each school shall ensure that children with disabilities have available to them the variety of educational programs and services available to non-disabled children, including art, music, industrial arts, consumer and homemaking education, and vocational training. § 34 CFR 300.305

§ 45.43 Physical education and athletics

(a) Physical education services, specially designed if necessary, must be made available to every child with a disability.

(b) Regular physical education. Each child with a disability must be afforded the opportunity to participate in the regular physical education program available to nondisabled children unless:

(1) The child is enrolled full time in a separate facility; or

(2) The child needs specially designed physical education, as prescribed in the child's IEP.

(c) Special physical education. If specially designed physical education is prescribed in a child's IEP, the school responsible for the education of that child shall provide the services directly, or make arrangements for those services to be provided through other public or private programs.

(d) Education in separate facilities. The school responsible for the education of a child with a disability who is enrolled in a separate facility shall ensure that the child receives appropriate physical education services in compliance with paragraphs (a) and (c) of this section.

§45.44 Discipline of children with disabilities

(a) Expulsion or suspension.

(1) A child with disabilities may not be expelled from school and may not be suspended from school for longer than ten (10) school days.

(2) If the child's behavior is so disruptive that the education of others is impaired, a review of the child's IEP and placement, as described in §45.31-45.38 of this part, must be undertaken in order to meet the needs of the child.

(3) In those cases in which the parents of a truly dangerous child adamantly refuse to permit any change in placement, the 10-day respite gives the school an opportunity to invoke the aid of the courts under Section 1415(e)(2), (484 U.S. at 326, 108 S.Ct. at 605, 1978-88 EHLR at 559:240) which empowers courts to grant any appropriate relief.

(4) Normal in-school disciplinary procedures are available to discipline children with disabilities. Such procedures may include the use of study carrels, time-outs, detention, or the restriction of privileges. In-school techniques to address behavior should be incorporated into the child's IEP.

(5) Accumulated short-term suspensions cannot exceed ten (10) school days in any one school year.

(b) Child's status during proceedings.

(1) During the pendency of any administrative or judicial proceeding regarding a complaint, unless the school and the parents of the child agree otherwise, the child involved in the complaint must remain in his or her present educational placement.

(2) If the complaint involves an application for initial admission to school, the child, with the consent of the parents, must be placed in the school program until the completion of all the proceedings.

(3) This Section does not permit a child's placement to be changed during a complaint proceeding, unless the parents and school agree otherwise. While the placement may not be changed, this does not preclude the school from using its normal procedures for dealing with

children who are endangering themselves or others. § 34 CFR 300.513

Subpart D--Procedural Safeguards

The Bureau shall ensure that each school establishes and implements procedural safeguards that meet the requirements of § 45.51-45.63.

§ 45.51 Notice to parents

(a) The notice under § 45.51 must include:

(1) A full explanation of all of the procedural safeguards available to the parents under § 45.51-45.63;

(2) A description of the action proposed or refused by the agency, an explanation of why the agency proposes or refuses to take the action, and a description of any options the agency considered and the reasons why those options were rejected;

(3) A description of each evaluation procedure, test, record, or report the school uses as a basis for the proposal or refusal; and

(4) A description of any other factors that are relevant to the school's proposal or refusal;

(5) The name(s) of the employee(s) of the school who may be contacted for further information;

(b) The notice must be:

(1) Written in language understandable to the general public; and

(2) Provided in the Native language of the parent or other mode of communication used by the parent(s) unless clearly not feasible to do so.

(c) If the Native language or other mode of communication of the parent is not a written language, the Bureau or the school shall take steps to ensure:

(1) That the notice is translated orally or by other means to the parent in his or her Native language or other mode of communication,

(2) That the parent understands the content of the notice; and

(3) That there is written evidence that the requirements in paragraphs (c)(1) and (2) of this section have been met. § 34 CFR 300.505

§45.52 Written parental consent

(a) Consent means that:

(1) The parent has been fully informed of all information relevant to the activity for which consent is sought, in his or her Native language, or other mode of communication;

(2) The parent understands and agrees in writing to the carrying out of the activity for which his or her consent is sought, and the consent describes that activity and lists the records (if any) that will be released and to whom; and

(3) The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time. § 34 CFR 300.500(a).

(b) Prior notice; parent consent. Written notice that meets the requirements of § 45.51 must be given to the parents of a child with a disability a reasonable time before the school:

(1) Proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of a Free Appropriate Education to the child; or

(2) Refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of a Free Appropriate Education to the child; and

(3) Before personally identifiable information is:

(i) Disclosed to anyone other than officials of participating agencies collecting or using the information consistent with the disclosure provisions of the Family Educational Rights and Privacy Act (20 USCS 1232g; 34 CFR Part 99),

(ii) Used for any purpose other than meeting a requirement under this part; or

(iii) Used for purposes other than those previously specified to the parent. § 34 CFR 300.504.

(c) Personal identifiable means that information includes:

(1) The name of the child, the child's parent, or other family member,

(2) The address of the child.

(3) A personal identifier, such as the child's social security number or student number; or

(4) A list of personal characteristics or other information that would make it possible to identify the child with reasonable certainty. § 34 CFR 300.500(c)

(d) Consent procedures if a parent refuses consent.

(1) The school may use the hearing procedures in § 45.57-45.63 to determine if the child may be evaluated or initially provided special education and related services without parental consent. If it does so and the hearing officer upholds the school, the school may evaluate or initially provide special education and related services to the child without the parent's consent, subject to the parent's rights under § 45.63. § 34 CFR 300.504

(e) Any changes in a child's special education program after the initial placement are not subject to the parental consent requirements in paragraph (b)(1) of this section, but are subject to the prior notice requirement in § 45.51 of this section and the IEP requirements of § 45.31.

§45.54 Record access rights

(a) The parents of a child with a disability shall be afforded, in accordance with the procedures of § 45.51-63 an opportunity to inspect and review all education records with respect to:

(1) The identification, evaluation, and educational placement of the child; and

(2) The provision of FAPE to the child.

(b) Each school shall permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by them under this part. The school shall comply with a request without unnecessary delay and before any meeting regarding an IEP or any hearing relating to the identification, evaluation, or educational placement of the child or the provision of FAPE to the child, and in no case

more than 45 days after the request has been made.

(c) The right to inspect and review educational records under this section includes:

(1) The right to a response from the school to reasonable requests for explanations and interpretations of the records;

(2) The right to request that the school provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records; and

(3) The right to have a representative of the parent (authorized in writing) inspect and review the records.

(d) The school may presume that the parent has authority to inspect and review records relating to his or her child unless the school has been advised, in writing, that the parent does not have the authority under applicable tribal or state law governing such matters as guardianship, separations, and divorce. § 34 CFR 300.562

(e) Record of access. Each school shall keep a record of parties obtaining access to education records collected, maintained, or used under this part (except access by parents and authorized employees of the school), including the name of the party, the date access was given, and the purpose for which the party was authorized to access the records. § 34 CFR 300.563

(f) Records on more than one child. If any education record includes information on more than one child, the parents of those children shall have the right to inspect and review only the information relating to their child or to be informed of that specific information. § 34 CFR 300.564

(g) List of types and locations of information. Each school shall provide parents, on request a list of the types and locations of education records collected, maintained or used by the school. § 34 CFR 300.565

(h) Amendment of records at parent's request.

(1) A parent who believes that information in the education records collected, maintained, or used under this part is inaccurate or misleading or violates the privacy or other rights of the child may request the school that maintains the information to amend the information.

(2) The school shall decide whether to amend the information in accordance with the request within a reasonable period of time of receipt of the request.

(3) If the school decides to refuse to amend the information in accordance with the request, it shall inform the parent of the refusal, and advise the parent of the right to a hearing. § 34 CFR 300.567

(i) Opportunity for a hearing.

(1) The school shall, on request, provide an opportunity for a hearing to challenge information in education records to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child. § 34 CFR 300.568

(j) Result of hearing.

(1) If, as a result of the hearing, the school decides that the information is inaccurate, misleading or otherwise in violation of the privacy or other rights of the child, it shall amend the information accordingly and so inform the parent in writing.

(2) If, as a result of the hearing, the agency decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child, it shall inform the parent of the right to place in the records it maintains on the child a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the school.

(3) Any explanation placed in the records of the child under this section must:

(i) Be maintained by the school as part of the records of the child as long as the record or contested portion is maintained by the agency; and

(ii) If the records of the child or the contested portion is disclosed by the school to

any party, the explanation must also be disclosed to the party. § 34 CFR 300.569

§45.55 Confidentiality of information

(a) Definitions as used in §45.55:

(1) Destruction means physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable.

(2) Education records means the type of records covered under the definition of education records in part 99 of this title (the regulations implementing the Family Educational Rights and Privacy Act of 1974).

(3) Participating agency means any agency or institution that collects, maintains, or uses personally identifiable information, or from which information is obtained, under this part. § 34 CFR 300.560

(b) Notice to parents.

The Bureau shall give notice that is adequate to fully inform parents about the requirements of § 45.12 including:

(1) A description of the extent that the notice is given in the native languages of the various Tribes;

(2) A description of the children on whom personally identifiable information is maintained, the types of information sought, the methods the Bureau intends to use in gathering the information (including the sources from whom information is gathered), and the uses to be made of the information;

(3) A summary of the policies and procedures that participating agencies must follow regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information; and

(4) A description of all of the rights of parents and children regarding this information, including the rights under the Family Educational Rights and Privacy Act of 1974 and implementing regulations in part 99 of this title.

(5) Before any major identification, location, or evaluation activity, the notice must be published or announced in newspapers or

other media, or both, with circulation adequate to notify parents throughout the Bureau of the activity. § 34 CFR 300.561

(c) Consent.

(1) Parental consent must be obtained before personally identifiable information is:

(i) Disclosed to anyone other than officials at the schools who are collecting or using the information under this part, subject to paragraph (2) of this section; or

(ii) Used for any purpose other than meeting a requirement of this part.

(2) The school may not release information from education records to participating agencies without parental consent unless authorized to do so under Memorandums of Agreement with the Bureau (i.e. MOA with Indian Health Service).

(3) The Bureau shall include policies and procedures in its State Plan that are used in the event that a parent refuses to provide consent under this section. § 34 CFR 300.571.

(d) Safeguards.

(1) Each school shall protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages.

(2) One official at each school shall assume responsibility for ensuring the confidentiality of any personally identifiable information.

(3) All persons collecting or using personally identifiable information must receive training or instruction regarding the Bureau's policies and procedures.

(4) Each school shall maintain, for public inspection, a current listing of the names and positions of those employees within the agency who may have access to personally identifiable information. § 34 CFR 300.572

(e) Destruction of information

(1) The Bureau shall inform parents when personally identifiable information collected, maintained, or used under this part is no longer needed to provide educational services to the child.

(2) The information must be destroyed at the request of the parents. However, a permanent record of a student's name, address, and phone number, his or her grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation. § 34 CFR 300.573

(i) Under § 45.55(e), the personally identifiable information on a child with a disability may be retained permanently unless the parents request that it be destroyed. Destruction of records is the best protection against improper and unauthorized disclosure. However, the records may be needed for other purposes. In informing parents about their rights under this section, the school should remind them that the records may be needed by the child or the parents for social security benefits or other purposes. If the parents request that the information be destroyed, the school may retain the information in paragraph (2) of this section.

§45.56 Surrogate parents

(a) After documented, repeated and reasonable efforts to identify and locate a parent of a child with a disability or of a child suspected of being a child with a disability or whenever a child is a ward of a court, the school supervisor must institute a proceeding to determine the need for a surrogate parent and, if need is found, for the appointment of a surrogate parent.

(b) The person appointed as a surrogate parent shall:

(1) Have no interest that conflicts with the interests of the child and shall not be a present employee of the school involved in the education or care of the child or a present employee of the school;

(2) Have knowledge and skills that insure adequate representation of the child, and

(3) Wherever possible, be a member of the child's extended family, or if that is not possible, a member of the same tribe as the child

(c) The surrogate parent shall represent the child in all matters relating to the identification,

individual evaluation and educational placement of the child and the provision of a free appropriate public education.

(d) Surrogate parents may not be appointed for the sole purpose of representing parents at the IEP conference.

(e) Payment or fees for service as a surrogate parent does not, in and of itself, render a person an employee of the school.

§45.57 Conciliation/mediation

(a) The school must make all reasonable efforts consistent with its obligations under this part, to resolve informally any ongoing disputes between the parent and the school.

(b) Prior to the initiation of a due process hearing, the school attempt to intervene with the mediation process. The following is a statement which describes this technique.

(1) Mediation is a dispute resolution process which is non-adversarial in nature. It seeks not to declare winners or losers, but to find reconciliation between disputing parties. This process is conducted through the skills of a trained mediator. Its focus is the mutually satisfactory resolution of disputes. No third party acts as judge or jury. The parties themselves arrive at an assessment through the process. Mediation can be initiated by either a parent or the school in order to resolve informally a disagreement with respect to the identification, evaluation, or educational placement of, or the free appropriate education provided to an Indian child. Mediation shall consist of, but not be limited to, an informal discussion of the differences between the parties in an effort to resolve those differences. The parents and the appropriate school officials may attend mediation sessions between the parties in an effort to resolve those differences.

(2) Mediation may be conducted, attempted, or refused in writing by concerned parties of the child with a disability whose education is at issue. Any request by a school for a hearing shall state in writing that the school requested mediation of the dispute prior to the

filing of an appeal and the result of that request. No stigma may be attached to the refusal of the concerned parties to mediate or to an unsuccessful attempt to mediate. Mediation may not be used to deny or delay a parent's right to impartial due process hearing.

§45.58 Initiation of hearings

(a) If the parent disagrees with any action taken by a school for which full and effective notice to parents is required by this part, a hearing may be initiated by the parent of a child with a disability or a child suspect of being a child with a disability by sending a written request for hearing to the Education Line Officer. The Education Line Officer must acknowledge receipt of the written request within ten (10) calendar days of actual receipt.

(b) In any instance where, after reasonable efforts at conciliation, a parent either fails or refuses to provide written consent for an initial evaluation, or an initial placement, the school may initiate a hearing in the same manner prescribed in paragraph (a) after giving a full and effective notice of its plan to request a hearing to the child's parent.

(c) The school shall inform parents that in any action or proceeding under section 615 of the Act, courts may award parents reasonable attorneys' fees under the circumstances described in section 615(e)(4) of the Act.

(d) Whenever a hearing is initiated, full and effective notice of the initiation of the hearing must be provided by the hearing officer to all persons concerned.

(e) The written notice of hearing shall include:

(1) A statement of the date, time, place and nature of the hearing;

(2) A statement of the legal authority and jurisdiction under which the hearing is to be held;

(3) A reference to the particular sections of the statutes or regulations involved, and

(4) A short and plain statement of matters asserted.

§45.59 Hearing officers

(a) A proposed hearing officer must be selected on a rotational and availability basis by the Education Line Officer within five (5) days of receipt of a request for a hearing, from a list established and maintained by the agency.

(b) After selecting a proposed hearing officer, the Area/Agency Line Officer must, within fifteen (15) days, give the parent(s) and the school full and effective notice of the name and qualifications of the proposed hearing officer.

(c) The parent and school, each within ten (10) days of notice of the selection of proposed hearing officer, may request that the agency/area determine that the person so proposed is not impartial and may exercise one automatic disqualification during the appointment process. The Director shall resolve all challenges for cause (i.e., partiality).

(d) If the proposed hearing officer is automatically disqualified or found to be not impartial by the Director, the Education Line Officer must designate another person.

(e) Final appointment of a hearing officer occurs whenever a proposed hearing officer is selected by the agency superintendent for education and the parent or the school fails to notify with ten (10) days the agency superintendent for education of a decision to challenge the impartiality of the proposed hearing officer or of a decision to automatically disqualify the proposed hearing officer (available only once for each party), or when the Director determines that no doubt exists as to the impartiality of a proposed hearing officer.

§45.60 Impartial hearing officer

(a) A hearing may not be conducted:

(1) By a person who is an employee of a school, or of the BIA; or

(2) By any person having a personal or professional interest which would conflict with his or her objectivity in the hearing.

(b) A person who otherwise qualifies to conduct a hearing under paragraph (a) of this section is not an employee of the agency solely because he or she is paid by the agency to serve as a hearing officer.

(c) The Education Line Officer shall keep a list of persons who serve as hearing officers and a statement of the qualifications of each of those persons.

§45.61 Hearing rights

(a) Any party to a hearing has the right to:

(1) Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities. The cost for such counsel or expert representatives shall be borne by the party employing them;

(2) Present evidence and confront, cross-examine, and compel the attendance of witnesses;

(3) Prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five (5) days before the hearing;

(4) Obtain a written or electronic verbatim record of the hearing; and

(5) Obtain written findings of fact and decisions.

(b) Parents involved in hearings must be given the right to:

(1) Have the child who is the subject of the hearing present; and

(2) Open the hearing to the public

(c) After deleting any personally identifiable information, the Education Line Officer shall make the finding of fact and decisions available to the public and shall transmit a copy of the finding of fact and decisions to the Director.

§45.62 Timelines and convenience of hearings and reviews

(a) The agency shall ensure that a final decision is reached by the hearing officer and a

copy of the decision is mailed to each of the parties within 45 days after receipt of a request for a hearing.

(b) A copy of the decision made in a review conducted under the authority of the Assistant Secretary--Indian Affairs must be mailed to each of the parties within 30 days of the request for a review.

(c) The hearing or reviewing officer may grant specific extensions of time at the request of either party.

(d) Each hearing and each review involving oral arguments must be conducted at a time and place which is reasonably convenient to the parents and child involved.

§45.63 Administrative appeal: impartial review

(a) A decision made in a hearing conducted under this subpart is final, unless a party to the hearing appeals the hearing decision.

(b) A party aggrieved by the findings and decision in the hearing may, within ten (10) days of the decision, appeal to the Assistant Secretary--Indian Affairs who may designate an independent hearing officer or administrative law judge, who is not an employee of the BIA or Department of the Interior, to conduct the review. A person is not an employee of the BIA solely because he or she is paid by the agency to serve as a hearing officer.

(c) The person conducting the review shall:

(1) Examine the entire hearing record;

(2) Ensure that the procedures at the hearing were consistent with the requirements of due process;

(3) Seek additional evidence if necessary. If a hearing is held to receive additional evidence, the rights in §45.61 and §45.62 apply;

(4) Afford the parties an opportunity for oral or written argument, or both, at the discretion of the reviewing official;

(5) Make an independent decision on completion of the review; and

(6) Provide written findings and the decision to the parties.

(d) The Department of the Interior considers the decision made by the reviewing official as final.

(e) After deleting any personally identifiable information, the BIA will make findings and decisions available to the public.

Subpart E--Personnel

§45.65 Comprehensive System of Personnel Development

The Bureau shall:

(a) Develop and implement a comprehensive system of personnel development that:

(1) Is consistent with the purposes of the Act and with the comprehensive system of personnel development described in § 45.66;

(2) Meets the requirements in §45.65;

(3) Is consistent with the provision on personnel standards in §25 CFR 38.5;

(b) Include in its State Plan a description of the personnel development system required in paragraph (a)(1) of this section.

(c) Adequate supply of qualified personnel.

(1) The Bureau must include in the State Plan, a description of the procedures and activities it will undertake to ensure and adequate supply of qualified personnel (as the term "qualified" is defined in § 45.6), including special education and related services personnel and leadership personnel, necessary to carry out the purposes of this part. The procedures and activities must include the development, updating, and implementation of a plan that

(i) Addresses current and projected special education and related services personnel needs, including the need for leadership personnel; and

(ii) Coordinates and facilitates efforts among the Bureau and the schools, institutions of higher education, and professional associations to recruit, prepare, and retain qualified personnel,

with an emphasis on Indian personnel and on personnel with disabilities.

(d) Personnel preparation and continuing education.

The Bureau's State plan must include a description of the procedures and activities the Bureau will undertake to ensure that all personnel necessary to carry out this part are appropriately and adequately prepared. The procedures and activities must include:

(1) A system for the continuing education of regular and special education and related services personnel to enable these personnel to meet the needs of children with disabilities under this part;

(2) Procedures for acquiring and disseminating to teachers, administrators, and related services personnel significant knowledge derived from education research and other sources; and

(3) Procedures for adopting, if appropriate, promising practices, materials, and technology, proven effective through research and demonstration.

(e) Data system on personnel and personnel development.

(1) The procedures and activities required in § 45.65 must include the development and maintenance of a system for determining, on an annual basis, the data required in paragraphs (2) and (3) of this section.

(2) Data on qualified personnel. The system required by paragraph (1) of this section must enable the Bureau to determine on an annual basis:

(i) The number and type of personnel, including leadership personnel, employed in the provision of special education and related services, by profession or discipline;

(ii) The number and type of personnel who are employed with emergency, provision, or temporary certification in each profession or discipline who do not hold appropriate State certification, licensure, or other credentials comparable to certification or licensure for that profession or discipline; and

(iii) The number and type of personnel, including leadership personnel, in each profession or discipline needed, and a projection of the numbers of those personnel that will be needed in five years, based on projections of individuals to be served, retirement and other departures of personnel from the field, and other relevant factors.

(3) The data on special education and related services personnel required in paragraph (1)(i) of this section must include audiologists, counselors, diagnostic and evaluation personnel, home-hospital teachers, interpreters for students with hearing impairments including deafness, occupational therapists, physical education teachers, physical therapists, psychologists, rehabilitation counselors, social workers, speech-language pathologists, teacher aides, recreation and therapeutic recreation specialists, vocational education teachers, work-study coordinators, and other instructional and noninstructional staff.

(4) The data on leadership personnel required by paragraph (1)(i) of this section must include administrators and supervisors of Bureau Education Line Offices who are involved in the provision or supervision of services or activities necessary to carry out the purposes of this part.

(5) Data on personnel development. The system required in paragraph () of this section must enable the Bureau to determine, on an annual basis, the institutions of higher education within the States that are preparing special education and related services personnel, including leadership personnel, by area of specialization, including:

(i) The number of students enrolled in programs for the preparation of special education and related services personnel administered by these institutions of higher education, and

(ii) The numbers of students who graduated during the past year with certification or licensure, or with credentials to qualify for certification or licensure, from programs for the preparation of special education and related services personnel administered by institutions of higher education.

§45.66 Qualifications of staff

Job qualifications requirements shall be in conformance with 25 CFR 38.4 of the Bureau. Education Personnel Regulations.

Subpart F--Administration

§45.70 Assurance of compliance

In connection with each annual application for assistance under this part, each school supervisory and each education line officer must sign a written assurance that the special education elementary and secondary programs are currently in compliance with and will, in the future, be operated in compliance with this part and all other applicable federal law.

§45.71 Program evaluation

Each Education Line Office must insure that an annual evaluation of the effectiveness of programs in meeting the educational needs of handicapped children is completed. The annual evaluation will be performed in accordance with the following:

(a) The evaluation will be based on the projections made in each funding application and must include a evaluation of the individual education programs.

(b) Local School Boards and parents must be given the opportunity to be involved in the evaluation.

(c) The Special Education Administrator will, through a review and comparison of the report with monitoring findings, certify the validity for the annual report.

(d) The Special Education Administrator will compile the reports and submit the compilation to the Office of Indian Education Programs, Division of Exceptional Education.

(e) The Division will consolidate the evaluation data into a single report on the Bureau's special education program and submit to the Director.

§45.72 Comparability of facilities

Facilities which are identifiable as being for children with disabilities and the services and activities provided therein, must meet the same standards and level of quality as do facilities, services and activities provided to nondisabled children.

Programs and services for children with disabilities in the regular school setting must be provided in facilities and surroundings comparable in important aspects, such as size, sanitation, ventilation, noise level, lighting, furnishings, and location, as those used for non-disabled students. Programs for children with disabilities in the regular school setting will not be located in portable facilities, basement facilities or undesirable physical settings, except on the same basis as those locations used for programs for non-disabled students.

§45.72A Architectural barriers and program accessibility

(a) Facilities used by schools, directly, or through contractual arrangement, must be accessible to and usable by children with disabilities. The accessibility standards of the American National Standards Institute (ANSI A117.1-1961 (R 1971)) shall be followed. Schools located in isolated locations may make application to the Director for an annual waiver of any standard. Such a request must be based on documented inability to meet the standards. In no event may architectural barriers prevent a child with a disability from being educated in the least restrictive educational environment as provided in §45.35.

(b) Program accessibility (i.e., where each program or activity, when viewed in its entirety, is readily accessible to children with disabilities must be ensured in all existing facilities

(c) Program accessibility may be accomplished through the following methods

- (1) Redesign of equipment,
- (2) Reassignment of classes or other services to accessible building;

- (3) Assignment of aides to children;
- (4) Home visits;
- (5) Alteration of existing facilities; or
- (6) Other methods.

(d) Schools must provide program accessibility which offers programs and activities to children in the least restrictive environment.

§45.72B Geographic accessibility

Consistent with the requirements of the IEP, the educational placement of a child must be as close to the child's home as possible. Unless the IEP of a child with a disability requires some other arrangement, the child will be educated in the school that he or she would attend if non-disabled. The placement of a child with a disability in an off-reservation boarding school operated by the Bureau shall not be regarded as inconsistent with this requirement to the extent that similarly situated nondisabled students are also placed in such a school.

§45.73 Non-discrimination

(a) No Bureau of Indian Affairs operated and/or funded school shall deny admission to any qualified Indian child with a disability on the basis of the disability.

(b) Each school must provide each Indian child with a disability enrolled therein whatever educational support services (including tutoring, access to instructional equipment, auxiliary aids) are necessary to permit the child to fully benefit from the program of special education and related services.

(c) No BIA operated and/or funded school shall discriminate on the basis of disability as provided in Section 504. Students who are disabled, but are not in need of special education and related services must be provided regular education accompanied by reasonable accommodations, if necessary, in the regular school setting. No IDEA Part B funds may be used to serve students with disabilities unless the student with a disability is in need of special education and related services

Subpart G--Responsibilities of the Director

§45.74 Director, Office of Indian Education Programs

The Director is responsible for education programs for children with disabilities and has overall responsibility for ensuring that every Indian child with a disability enrolled in a Bureau operated or funded school is provided a free appropriate education, and that all requirements of this part are fully complied with by schools and Education Line Offices.

§45.76 Complaint procedures

(a) The director shall receive, review, and resolve complaints filed by organizations or individuals and act on any allegations of substance on actions taken by a school or agency that are contrary to the requirements of this part.

(b) Complaints must include a statement that a school or agency has violated this part; and the facts on which the statement is based.

(c) The Director shall, within 60 calendar days after a complaint is filed, carry out an on-site investigation if deemed necessary; give the complainant the opportunity to submit additional information, either orally or in writing, review all relevant information, and make an independent determination as to whether the school or agency is violating this part; and shall issue a written decision to the complainant that addresses each allegation in the complaint and includes findings of fact and conclusions, only the reasons for the final decision.

(d) In carrying out the requirements of paragraph (a) of this section the Director will assist Agencies to achieve compliance through

- (1) Technical assistance;
- (2) Negotiation; and/or
- (3) Third party mediation.

(e) Failure to comply with the requirements of this part (after appropriate action as described in paragraph (d) of this section) shall result in sanctions under existing BIA procedures including the withholding of IDEA Subpart B

funds until the Agency or school achieves compliance with the requirements of this part.

(g) Parents and other interested individuals will be informed of complaint procedures in parent rights information brochures and through distribution of copies of the rules contained in this part.

§45.77 Use of available funds

The Director shall ensure that all funds to which schools become entitled because of the enrollment of children with disabilities, be used for the identification, evaluation, and the provision of a free, appropriate education to Indian children with disabilities.

§45.78 Children for whom the Division of Social Services has accepted financial responsibility

(a) No Indian child with a disability in the care of the Division of Social Services may be placed in, or referred to any public or private residential facility until the Director is consulted and the special education component has been approved.

(b) Nothing in this part relieves an insurer or similar third party from an otherwise valid obligation to provide or pay for services provided to a child with a disability.

§45.79 Cooperative agreements

(a) The Director is authorized to enter into cooperative agreements with federal, state, and local education agencies for the provision of special education and related services to children with disabilities enrolled in schools, operated and/or funded by the Bureau.

(b) The Director may not enter into any cooperative agreement for the provision of special education and related services with state or local education agencies which, with respect to any aspect of the cooperative special education program, disseminated or has the effect of discriminating, against any child on the

basis of race, creed, national origin, tribal affiliation, religion, sex, disability, or eligibility for services provided by the Bureau.

(c) The Director is responsible for ensuring that every eligible Indian child with a disability participating in a cooperative special education program is provided a free, appropriate education in the least restrictive environment consistent with the procedural safeguards required by §45.30.

§45.80 Bureau of Indian Affairs Advisory Committee for Exceptional Children

(a) The BIA Advisory Board shall be composed of individuals involved in, or concerned with, the education and provision of services to Indian infants, toddlers, children, and youth with disabilities and shall include: (1) Indians with disabilities; (2) Indian parents or guardians of such children; (3) teachers; (4) service providers; (4) state and local education officials; (5) representatives of tribes or tribal organizations, representatives from state interagency coordinating councils in states having reservations; and (6) representatives of the various divisions and entities of the BIA. The chairperson shall be selected by the Secretary.

(b) The Advisory Board shall

(1) Assist in the coordination of services within the BIA and with other local, state, and federal agencies in the provision of education for infants, toddlers, children, and youth with disabilities;

(2) Advise and assist the Secretary in the performance of the Secretary's responsibilities in providing special education to children under the jurisdiction of the secretary;

(3) Develop and recommend policies concerning effective inter- and intra-agency collaboration, including modifications to regulations, and the elimination of barriers to inter- and intra-agency programs and activities;

(4) Provide assistance and disseminate information on best practices, effective program coordination strategies, and recommendations for

improved educational programming for Indian infants, toddlers, children, and youth with disabilities;

(5) Provide assistance in the preparation of information on the number of children and youth with disabilities served and the types and amounts of services provided and needed.

(c) The advisory board shall meet as often as necessary to conduct business.

(d) By July 1 of each year, the advisory board shall submit an annual report to the Director and the Assistant Secretary of Indian Affairs. This report must be made available to the public.

(f) All advisory board meetings, including time and place of the meeting and agenda items, must be publicly announced prior to the meeting, and meetings must be open to the public.

(g) Interpreters and other necessary services must be provided at board meetings for board members or participants.

(h) The advisory board shall serve without compensation, but will be reimbursed for necessary travel and expenses, in compliance with current federal travel regulations, as published by GAS, for attending meetings and performing duties.

CONSULTATION ITEM #6

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CONSULTATION ITEM/TOPIC:

Enter into a lease arrangement with the Bureau under which the tribe would construct a facility with a guaranteed annual lease payment from the Bureau to pay back the costs of construction.

POTENTIAL ISSUE OR CHANGE:

How such a program could be accomplished, and what legislative and administrative changes could have to be implemented prior to undertaking such a program.

REASON FOR PROPOSING ISSUE OR CHANGE:

Mandated by House Committee to do a study by April 1, 1994.

CURRENT OPTION(S) BEING CONSIDERED BY THE BUREAU:

The OIEP and OCM seeks comments and recommendations from the Indian Country.

BACKGROUND

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In the Fiscal Year 1994 House Report regarding Interior Appropriations, Congress directed:

"In recent years, several tribes have asked that authority be provided to enter into a lease arrangement with the Bureau under which the tribe would construct a facility with a guaranteed annual lease payment from the Bureau to pay back the costs of construction. The Committee requests the Bureau and Department to conduct a study of how such a program could be accomplished, and what legislative and administrative changes would have to be implemented prior to undertaking such a program. The study should be submitted to the appropriate authorizing and the Appropriations Committee by April 1, 1994."

Initial discussions within the Department about the study have focused on identifying potential sources of funding for the construction of new schools, potential reimbursements for the construction of new schools, and potential methods for administering the construction of new Indian schools.

The study could be designed to include an analysis of alternatives which will identify those alternative methods of funding, reimbursement, and administration which warrant further development. Potential advantages, potential problems, and suggested actions to be taken would be considered. The analysis of alternatives would also identify those alternatives which are not feasible to pursue.

Such an approach could provide tribal and federal decision makers with the flexibility to put together various packages to construct new schools in Indian country that are feasible, innovative, and consistent with the needs, desires, and future directions of local communities.

Your reactions to the following questions are solicited:

QUESTIONS:

(1) Is the study approach identified above a reasonable way of proceeding? If so, what alternative methods of funding reimbursement, and administration should be studied? What potential advantages, problems and solutions exist for each of these alternatives?

(2) What alternative study approach, if any, should be considered?



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Washington, D.C. 20240



IN REPLY REFER TO:

Education
Code 532

02 SEP 1993

Memorandum

To: All Education Line Officers
All Division Chiefs, Office of Indian Education Programs
Regional Tribal Consultation Teams

From: Director, Office of Indian Education Programs

Subject: Status Report on July, 1993 Tribal Consultation

The purpose of this report is to provide feedback to all interested parties concerning what action(s) this office has taken on these particular consultation items since the Tribal consultation meetings in July, 1993. Each education line officer is requested to provide a copy of this update to each Tribe and school within his/her jurisdiction.

Consultation Item #1 - Program Design

Purpose of Item #1 - This consultation item was designed to assess Indian country's degree of support for a system-wide review of the programs in the Division of Programs. The reason for proposing the review was to determine any information concerning program improvement. This specific proposal appears in the Tribal Consultation Booklet as a question to Indian country.

Analysis of Comments Made During Consultation - There were verbal and written comments made on this item by Indian country during the eleven (11) regional consultation meetings. These comments will be shared with the various branches concerning their programs.

Future Actions - As stated in the Tribal consultation booklet, this consultation item was presented to Indian country to determine if there was a need for a change in direction or change in the programs to improve system-wide programs. After reviewing the comments and recommendations received from Indian country and the four Tribal consultation teams, the Bureau will consider changes that will improve the program and will continue to consult on such education programs in the future.

679

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United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Washington, D.C. 20240



IN REPLY REFER TO

PO&E - 522

02 SEP 1993

MEMORANDUM

TO: All Education Line Officers
All Division Chiefs, OI&P
Regional Tribal Consultation Teams

FROM: Director, Office of Indian Education Programs

SUBJECT: Status Report on July, 1993 Tribal Consultation Item
Number 2 - Tribal Consultation Dates for 1994

The purpose of this report is to provide feedback to all interested parties concerning what actions this office has taken or intends to take on this consultation item since the July, 1993 Tribal consultation meetings. Each Education Line Officer is to provide a copy of this update to each Tribe and school board within his/her region.

Consultation Item #2 - Tribal Consultation Dates for 1994:

Purpose of Item #2 - This item was designed to gain feedback from Indian Country on the Bureau's proposal to hold its 1994 Tribal consultation meetings during the months of March and October. Previously, the Bureau had held the consultation meetings during January and July of each year.

Comments Made During Consultation:

There were 118 comments collected on this item at the consultation meetings. Of those comments received, there were 61 in favor, 54 neutral and three (3) that were in disagreement with the proposed change in dates from January - July to March - October.

There were numerous suggestions that the Consultation meetings be in conjunction with various other meetings such as the Alaska Native Festival in Alaska, state Indian Education Association meetings, etc.

The majority of those comments recorded as neutral were generally in agreement with the change. Some other factors that were mentioned included problems with local weather, state tournaments and one suggestion that the meetings be held the first week of the month if they are to be changed.

630

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Future Actions:

The base months for the 1994 Consultation meetings will be March and October. To the extent possible, the Tribal Consultation meetings will be coordinated with local and/or state meetings.

If there are any questions regarding this report, please feel free to contact either Dr. James Martin at (202) 208-3550, or Mr. Kenneth Whitehorn at (202) 219-1131. Written questions may be mailed to:

US Department of the Interior
Bureau of Indian Affairs
Office of Indian Education Programs
Branch of Planning
1849 C St. NW., MS 3512 - MIB
Washington, DC 20240

John W. Tippelmann



IN REPLY REFER TO

United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Washington, D.C. 20240



Education
PO&E 533

AUG 31 1993

Memorandum

To: All Education Line Officers
All Division Chiefs, Office of Indian Education Programs
Regional Tribal Consultation Teams

From: Director, Office of Indian Education Programs

Subject: Status Report on July 1993 Tribal Consultation Item Number 3 - Inclusion of the Indian School Equalization Program and the Tribally Controlled Community College funds in the Self-Governance Compacts of tribes participating in the Self-Governance Demonstration Project.

The purpose of this report is to provide feedback to all interested parties concerning what action(s) this office has taken on this particular consultation item since the consultation meetings in January. Each education line officer is to provide a copy of this update to each tribe and school within his/her jurisdiction.

The consultation item posed the following questions: (1) Does Indian Country agree or disagree with the inclusion of ISEP and TCCC funds in the Compact Agreements of those tribes participating in the Self-Governance Demonstration Project?; and (2) Does Indian Country have comments on the DRAFT feasibility study required by Congress?

The results of the consultation meeting are summarized below.

There were a total of 143 comments made at eleven locations across Indian Country. The distribution of the comments are as follows:

Agree	Disagree	Neutral
27	92	24

SAMPLE OF COMMENTS

The individual comments disagreeing with the proposal for inclusion ranged from unsur of the implications to adamant opposition, especially regarding the ISEP program. A recurring concern was the possibility that ISEP funds would be used for other tribal programs (accountability issues), since education may not always be a high enough priority among tribal governments.

Among the neutral comments, several individuals thought they needed more information to better understand the implications of the proposal and also assurances that the inclusion by tribes would not adversely impact the school programs.

There was also a concern that in compacting, ISEP would loose its priority and be more severely underfunded. Some thought that more consultation with schools, school boards, parents and TCCCs was needed before any decision is made, one way or the other. One comment indicated that to not include these programs in compacts implies that tribes are incapable of effectively managing education programs.

The Feasibility Study, completed in November of 1992, was not submitted, pending a review by Indian Country. The Study was included, for review, as part of the July 1993 consultation topic number three.

ACTIONS TO BE TAKEN

At this time, based on the comments of Indian Country, it is the recommendation of the Director, OIEP that the ISEP and the TCCC funds not be included in the Self-Governance Demonstration Project.

The comments received during the July 1993 tribal consultation period will be attached to the Feasibility Study when it is submitted to the Congress. As the Study was required by the Congress, it is Congress which ultimately will decide on the inclusion of the ISEP and TCCC funds in the compacts of those tribes participating in the Self-Governance Demonstration Project.

If there are any questions regarding this item, please contact James Martin or John Reimer at 202-208-3550 or 3562.





IN REPLY REFER TO:

United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
WASHINGTON, D.C. 20240



PO&E - 532

02 SEP 1993

Memorandum

To: All Education Line Officers
All Division Chiefs, Office of Indian Education Programs
Regional Tribal Consultation Team Members

From: Director, Office of Indian Education Programs

Subject: Indian School Equalization Program Formula (ISEF): Agenda Item #4 Consulted on during July 1993 Consultation Meetings -
- A Status Report.

INTRODUCTION: This report provides a summary of comments received from consultation participants regarding the above; and describes action(s) the Office of Indian Education Programs (OIEP) has taken or plans to take regarding such item/topic as was consulted on.

BACKGROUND: By letter dated March 12, 1993, Robert C. Byrd, Chairman of the Interior and Related Agencies Appropriations Committee, United States Senate, notified the Secretary of the Interior of the Committee's concern "about the current methodology for estimating and distributing funding for School Operations using the ISEP formula."

Upon elaboration, Chairman Byrd expressed the view that the quality of Bureau-funded education is compromised because the formula does not allocate educational resources effectively; and, that while some schools are adequately funded, others face serious shortfalls under the distribution method.

Chairman Byrd's letter was in response to the Department's request of February 4, 1993 for approval to reprogram \$8,786 Million from Indian Child Welfare Act Grants (ICWA) to School Operations to supplement the 1992-1993 school year. The Chairman expressed the understanding that the reprogramming request was

based on funding shortfalls resulting from "unanticipated increases in student enrollment and an increase in the number of students enrolled in special programs ..." funded by the ISEP formula.

In advising the Secretary that the "Committee has no objections to the proposed reprogramming", Chairman Byrd stated, however, that the Committee "expects the Department to transfer only emergency funds which are necessary to avert the shutdown of individual schools."; and that funds were not to be used for an across-the-board increase in the weighted student unit calculation.

Finally, the Department was requested to (1) closely examine the funding situation at the schools and (2) explore alternative funding distribution mechanisms and improved accountability measures. Additionally, as part of the ISEP formula reauthorization this year, the Bureau plans to work with the Congress to identify a funding distribution methodology which will more effectively allocate and manage resources.

The Chairman's letter appears to be a follow up to interest expressed in House Report No. 102-626 which accompanied the Bureau's FY 1993 Appropriations Act and which stated "The Committee is aware of the recommendation of the blue-ribbon panel which examined the ISEP formula, to increase the formula amount to \$3,499. Unfortunately, the Committee was not able to provide the increase that would have been needed to meet this recommendation this fiscal year, but expects the Bureau to include funding to achieve this recommendation in future budget requests."

CONSULTATION MEETING COMMENTS: In preparation for a study of the ISEP to identify more effective funding distribution and management methodologies, Indian Country was asked for input regarding the study design, implementation and evaluation and a report of findings to Congress. Seven (7) specific questions were asked. Comments were usually broad and often general. For purposes of this report, such comments are, therefore, summarized in broad, general terms.

A total of 235 comments were received during the eleven (11) consultation meetings distributed by location as follows:

Aberdeen	34	Oklahoma	4
Albuquerque	20	Phoenix	28
Anchorage	9	Portland	32
Billings	10	Sacramento	18
Gallup	42	Eastern	12
Minneapolis	26	TOTAL	235

Focus of the comments are summarized as follows:

I. OBJECTIONS TO STUDY

Almost 20% of the 235 comments regarding the proposed study expressed opposition to "yet, another study", stating that:

(a) adequate data from recent studies is currently available for examination and analysis; and, the findings and recommendations of these past studies are sound and acceptable.

(b) major problem areas have been identified; recommendations made; but, recommendations remain unimplemented.

(c) another study will simply "reinvent the wheel" sapping valuable time, effort and funds; with the expectation that results will go nowhere.

II. INADEQUATE APPROPRIATIONS

Almost universally, commentators expressed concern regarding the inadequacy of Congressional appropriations, stating frequently that no formula, including the ISEE, can ever prove workable in the absence of adequate appropriated funds. Concern was voiced over the schools' constantly having to compete "against" each other for funding and mention made of specific programmatic and administrative areas which are seriously impacted due to inadequate funds.

Indirect Costs, Contract Support funds and Facilities were most often cited as areas for which additional funds are needed. These were mentioned as major areas in which there are constant shortfalls producing situations whereby the schools are constantly having to borrow from Peter to pay Paul.

It was suggested that the Bureau routinely allow for inflation in planning for and developing appropriations' requests. It was further expressed that while the \$3499 WSU value recommended by the Blue Ribbon Panel is more realistic than the current WSU value, the costs on which this amount was based at the time recommended three (3) years ago are now probably inadequate.

It was suggested that the tribes provide matching funds, or at a minimum, provide supplemental funds, to enable them to gain a sense of "ownership."

III. ACCOUNTABILITY MEASURES AND ENFORCEMENT

Several concerns were expressed regarding practices and conditions which impact negatively upon accountability at all levels of the BIA/OIEP operations related to allocation and management of funds related to ISEP operations. While many of the concerns were often expressed forcefully, the general consensus appeared to be that these practices and conditions could be corrected quite effectively by deliberate administrative action without having to make major changes in the current ISEF.

In this regard, many suggested that preventive measures be instituted and that in the future, corrective action be taken immediately to have offending schools rectify the questionable practices/conditions. It was pointed out that preventive measures and corrective action was far more practical than changing the entire process or formula for calculating allocations.

Foremost among the numerous suggestions/recommendations were the following:

(a) Establish clear, concise student and program eligibility criteria and reliable Student Count Processes, including Student Count Certification measures which ensure stringent enforcement of such eligibility criteria and counting of students for ISEP funding.

(b) Establish a sound, straight-forward Student Count process which ensures a fair, equitable calculation of fund allocations by eliminating such current questionable practices such as:

i) "high pressured" recruiting for student enrollment and attendance during the current one (1) week set aside for counting students for ISEP funding.

ii) "unchecked" absenteeism, transfers and drop out of students for whom ISEP funds have been allocated.

(b) Establish corrective/remedial measures and actions for offending schools' organizational levels and education officials who fail to comply with established procedures, standards and requirements.

(c) Establish clear, concise Fund management Guidelines and Performance Standards conducive to the elimination of overspending.

(d) Establish joint Federal interagency Payment Management System similar to that used by the Title V Program. Eliminate overspending/tie into performance appraisals.

(e) Since BIA has the responsibility to fund at adequate levels measures should be taken to accurately project enrollment and develop sound plans well in advance for program expansions and other costs. For example, if Bureau funds are to be provided for Alaska schools the Bureau should plan for and request adequate appropriations well in advance of this eventuality.

(f) Key governmental decision makers, including OMB and appropriations committees members should visit school locations and see "real" situation.

(g) Greater coordination of programs within the Bureau and with other Federal agencies is imperative.

(h) Mechanism/process for unexpected emergencies must be established

(i) Grant and Contract Payments should be made on a timely schedule.

(j) O & M funds should be on same FY schedule as ISEP

IV. FACTORS TO CONSIDER FOR INCLUSION IN FORMULA

Most commentators, generally, support the ISEF as currently structured. Consistent with a general attitude of opposition to "another" study of ISEF, many appear to view the formula as stabilizing--something that they can count on, even in the absence of adequate funding.

Nevertheless, commentators offered a number of the suggestions and recommendations which would make major, fundamental changes to the existing formula. Foremost among such suggestions and recommendations are the following:

(a) Establish method for computing/allocating a school-by-school base funding amount

(b) Basic Instructional and Residential Programs should be funded first; and, then, supplemental programs should be funded from remaining funds, if such supplemental programs are funded at all.

Some commentators suggested that supplemental programs not be factored into the formula. Many expressed that it is the schools who should decide whether or not it wishes to offer the special programs. It was indicated that factoring in special programs creates conditions where the curriculum is driven by the dollars, rather than the program dictating where funds will be allocated/spent.

(c) Factor in Cost of Living Factors appropriate to the geographic area

(d) Increase WSU value for Kindergarten students

(e) Food Services Costs need to be adequately assessed/ and appropriate weight factor included in the formula

(f) Residential -v- Day School costs must be factored in

(g) Bring integrity to the Student Count process by replacing the Once-a-Year Student Count with a count based on either an ADM or ADA.

Commentors expressed that such an approach is conducive to greater fairness; will minimize "high pressure" recruitment of students for count week; will create a greater conscientiousness of student absenteeism, transfers and drop out problems. Schools must be held accountable for drop-out rates, and absenteeism.

(h) Residential and Instructional Programs should be funded separately.

(i) Develop Sound Planning techniques for the coordination of programs within the school setting to enable greater efficiency in the use of funds by having each program compliment all other programs. For example, the regular program and its funding can be better coordinated with and enhance the Chapter 1 program, just as the Chapter 1 program can greatly enhance the regular program.

(j) DOD salary scale and transportation must be factored in

(k) Per pupil allocations should be comparable with nearest public schools

(l) Fund Bilingual/IRG separate, not out of ISEP

(m) Within expressions that OIEP ought to be able to project enrollment, the following considerations were also offered:

- 1) flexibility in determining need
- 2) consider capacity of school (size)
- 3) rural and isolation factors need to be considered
- 4) ORBS need increased funding
- 5) School funding levels should be comparable to nearby public schools
- 6) ISEP needs to be more stable in \$\$ levels each year.
- 7) Current formula does not work to meet needs
- 8) OIEP should work/coordinate closely with Social Services/IHS/OIE, etc.
- 9) Formula should be needs-based
- 0) Strengthen Parental Involvement

Finally, it was suggested that any study group should include local educators and practitioners; and, every effort made to eliminate national politics.

IV. FUTURE ACTIONS

Based on the directions given by the appropriation committee, the OIEP will pursue a study of the ISEP formula. The comments made on this consultation item will be reviewed and used in designing such a study. The proposed study will be outlined in future consultation meetings.

John W. Tyson (P)

LOCAL CONTACTS

Meeting information may be obtained from persons having responsibility for meetings in specified states as follow:

ALASKA	<i>Robert Pringle</i>	907/271-4115
ARIZONA	<i>Mike Smith</i> <i>Rosella Lawrence</i>	602/562-3557
MINNESOTA	<i>Betty Walker</i>	612/373-1090
MONTANA	<i>Larry Parker</i>	406/657-6375
NEVADA	<i>Fayrta Babby</i>	916/978-4680
NEW MEXICO	<i>Val Cordova</i> <i>Larry Holman</i>	505/766-3034 505/786-6150
NORTH DAKOTA	<i>Jim Davis</i>	701/477-6471
OKLAHOMA	<i>Jim Baker</i>	405/945-6051
TENNESSEE	<i>Kimberly Marciano</i>	703/235-3233
WASHINGTON	<i>Van Peters</i>	503/230-5682

TRIBAL CONSULTATION



**U. S.
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS
OFFICE OF INDIAN EDUCATION PROGRAMS**

March 1994

LEGISLATIVE AUTHORITY

Section 1130 of Public Law 95-561, as amended, states:

"It shall be the policy of the Secretary and the Bureau in carrying out the functions of the Bureau, to facilitate Indian control of Indian affairs in all matters relating to education . . . with active consultation with tribes . . . [by] a process involving the open discussion and joint deliberation of all options with respect to potential issues or changes between the Bureau and all interested parties. . . [and]

During such discussions and joint deliberations, interested parties (including, but not limited to, tribes and school officials) shall be given an opportunity to present issues including proposals regarding changes in current practices or programs which will be considered for future action by the Bureau."

IMPLEMENTATION PROCESS

In 1991, the Bureau of Indian Affairs formally initiated a process intended to fulfill the P. L. 95-561 consultation mandates; and, the Office of Indian Education Programs (OIEP), as a matter of policy, committed to regularly scheduled, twice-a-year consultation meetings across Indian Country. It is intended that the meetings afford Indian tribes, parents, schools and interested parties the opportunity to consider, discuss and propose options for the resolution of issues relating to education programs and to offer alternatives to changes which the Bureau may be considering.

The meetings are planned and conducted by Regional Consultation Teams, each comprised of Tribal Representatives, Area/Agency Education Line Officers and Central Office Education staff; and, are held in eleven (11) locations at least twice per year. The results of all consultation meetings are presented to the Director and staff, OIEP, for use in daily operations and future planning. The overall Tribal consultation effort is organized and maintained by the Branch of Planning, OIEP.

TRIBAL CONSULTATION

March 1994



PLANNING, OVERSIGHT AND EVALUATION

Branch of Planning

LOCAL CONTACT PERSONS

Consultation meeting information may be obtained from the local contacts listed on the inside back cover.

WRITTEN COMMENTS

Written Comments must be received by April 08, 1994 and, should be mailed or hand delivered to:

*Bureau of Indian Affairs
Office of Indian Education Programs
MS-3512 MIB
1849 C. Street, NW
Washington, D.C. 20240*

Attn: Dr. John Tippeconnic

FOR FURTHER INFORMATION CONTACT

*Dr. John Tippeconnic, Director,
Office of Indian Education Programs
202/208-6123*

*Dr. James Martin, Chief,
Planning, Oversight and Evaluation
202/208-3550*

CONTENTS

Page

Section

Inside Cover	Consultation Authority and Process
i	Tribal Leader/School Board Letter
iii	Federal Register Notice

CONSULTATION ITEMS

1	BIA Safety and Health Inspection Program - Proposed rule
3	BIA FY 95-97 State Plan - Exceptional Education Program
5	Proposed Changes to Intensive Residential Guidance Regulations
-	Open Discussion (Explanation on page ii)
13	Proposed Tribal/BIA Higher Education Association
15	Proposed Tribal/BIA Johnson-O'Malley Association
17	Portable Classroom Program
25	Indian Education Work Group Policy Papers

APPENDIX I-STATUS REPORTS OF OCTOBER 1993 ITEMS

Indian School Equalization Formula (ISEF) Study
Improved Accountability Measures/Indicators of School Quality
Alaska Native Education
Public Law 101-301 "Miscellaneous Indian Law Amendments"
(Includes Construction Funds)
Exceptional Education Regulations
Alternative funding methods for Construction of Indian schools

APPENDIX II-OCTOBER 1993 COMMENTS' SUMMARY & ALL ITEMS' STATUS

National Summary of October 1993 Consultation Comments
Previous Consultation Items, an Overall Status Summary



IN REPLY REFER TO:

POE - 532

United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Washington, D.C. 20240

February 03, 1994



Dear Tribal Leader/School Board Member/Others:

In keeping with the commitment of this Office to conduct twice-a-year consultation meetings with the tribes, we are pleased to advise that the initial set of meetings for this year on education matters will be held in March, 1994.

DATES, SITES AND LOCAL CONTACTS:

The locations, dates and local contacts for the meetings are provided in the draft copy of the Federal Register Notice of the meetings included in this Booklet. Specific meeting locations can be obtained from the local individual contacts which are identified in the Notice for each site.

CONSULTATION PROCESS:

The meetings will use a discussion format and be conducted by regional consultation teams, comprised of Bureau and tribal representatives as has been done since 1992. Overall, the process is as follows:

1. A Consultation Steering Committee of regional team members will select consultation items; prepare materials and produce a Tribal Consultation Booklet.
2. A Notice announcing consultation meeting dates and locations will be published in the Federal Register.
3. The Tribal Consultation Booklet containing agenda items will be mailed to Tribes and School Boards.
4. Eleven consultation meetings will be conducted by the regional consultation teams, using a discussion format, on items included in the Booklet.

5. Regional teams conducting each meeting will encode, on-site, data from comments made during the meeting into a Tribal Consultation Data Base; and, generate a summary report of the day's consultation comments for distribution at the end of that day's meeting.

ADDED CONSULTATION MEETING FEATURE:

In response to concerns that meeting participants are not provided ample opportunity to present and discuss topics of great concern, an open discussion period has been included midway between the six (6) specified consultation items for the March meetings. During this period, participants are encouraged to make oral/written presentations and proposals or offer topics for discussion relating to the Bureau's education programs.

FORMAT FOR COMMENTS AND RESPONSES:

Since comments from several hundred respondents are anticipated, it will be helpful if all comments and suggestions, written and oral, provide the following information:

1. Consultation Item/Topic being addressed.
2. Name of the respondent; AND, Name & Address of the organization which respondent represents.

We encourage all tribes, Indian school boards and parents to attend the meetings and provide oral and/or written comments on each item/topic. If there are any questions please do not hesitate to call on the local contact identified for your respective area.

Sincerely,

A handwritten signature in black ink, appearing to read "John W. Tuppe". The signature is fluid and cursive, with a large initial "J" and a stylized "T".

Director, Office of Indian Education
Programs

[K00 E30 94 35300]

[4310-02]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Tribal Consultation on Indian Education Topics

AGENCY: Bureau of Indian Affairs, Interior

ACTION: Notice of Tribal Consultation Meetings

SUMMARY: Notice is hereby given that the Bureau of Indian Affairs (BIA) will conduct consultation meetings to obtain oral and written comments concerning potential issues in Indian education programs. The potential issues which will be set forth in a tribal consultation booklet to be issued prior to the meetings are as follows:

1. BIA safety and health inspection program - proposed rule
2. BIA FY 95-97 State Plan - Exceptional Education Program
3. Proposed Change to Intensive Residential Guidance Regulations
4. Proposed National Organization for Higher Education Directors
5. Proposed National Organization for Johnson-O'Malley Directors
6. Proposed Portable Classroom Guidelines
7. Indian Education Work Group Policy Papers

DATES: March 14, 16, 18, 21, 23, and 25, 1994 for all locations listed. Several of the dates and locations were scheduled to coincide with meetings of various Indian education organizations. All meetings will begin at 9:00 a.m. and continue until 3:00 p.m. (local time). Written comments concerning the consultation items must be received no later than April 08, 1994.

ADDRESSES:

<u>Location</u>	<u>Local Contact</u>	<u>Telephone</u>
MARCH 14, 1994		
1. OKLAHOMA, Tulsa	Jim Baker	405/945-6051
2. NEW MEXICO, Albuquerque	Val Cordova	505/966-3034
MARCH 16, 1994		
1. FLORIDA, Tampa	Lena Mills	703/235-3233
2. NEW MEXICO, Gallup	Lester Hudson	505/368-4427
MARCH 18, 1994		
1. ALASKA, Anchorage	Robert Pringle	907/271-4115
2. ARIZONA, Phoenix	John Wahnee	602/738-2262
MARCH 21, 1994		
1. CALIFORNIA, San Diego	Fayette Babby	916/978-4680
2. SOUTH DAKOTA, Aberdeen	Neva Sherwood	605/856-4478
MARCH 23, 1994		
1. WASHINGTON, Seattle	Van Peters	503/230-5682
2. WISCONSIN, Green Bay	Betty Walker	612/373-1090
MARCH 25, 1994		
1. MONTANA, Billings	Larry Parker	406/657-6375

Written comments should be mailed, to be received, on or before April 08, 1994, to the Bureau of Indian Affairs, Office of Indian Education Programs, MS 3512 MIB, 1849 C. Street, NW, Washington, D.C. 20240, Attn: Dr. John Tippeconnic; OR, may be hand delivered to Room 3512 at the same address.

FOR FURTHER INFORMATION CONTACT: John Tippeconnic or Jim Martin at the above address or call 202/208-6123 or 208-3550.

SUPPLEMENTARY INFORMATION:

The meetings are a follow-up to similar meetings conducted by the BIA since 1990. The purpose of the consultation, as required by 25 U.S.C. 2010(b), is to provide Indian tribes, school boards, parents, Indian organizations and other interested parties with an opportunity to comment on potential issues raised during previous consultation meetings or being considered by the BIA regarding Indian education programs. A consultation booklet for the March meetings is being distributed to Federally recognized Indian Tribes, Bureau Area and Agency Offices and Bureau-funded schools. The booklets will also be available from local contact persons and at each meeting.

DATE

ASSISTANT SECRETARY - INDIAN AFFAIRS

CONSULTATION ITEM 1

=====

CONSULTATION ITEM/TOPIC:

Safety and Health Inspection program for Bureau-funded schools.

POTENTIAL ISSUE OR CHANGE:

To establish criteria for determining whether plant conditions at a Bureau-funded school (workplace) constitute an immediate hazard to health and safety.

REASON FOR PROPOSING ISSUE OR CHANGE:

P.L. 100-297, The Indian Education Amendments of 1988, requires the Bureau of Indian Affairs to (1) review guidelines used for determining whether plant conditions at a Bureau-funded School constitute an immediate hazard to health and safety; and (2) issue regulations which shall be used by health and safety officers in making such determinations.

CURRENT OPTION(S) BEING CONSIDERED BY THE BUREAU:

To publish a new part 50 to subchapter E of 25 CFR entitled Safety and Health Inspection Program.

BACKGROUND

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Section 5103 of P.L. 100 - 297, the Indian Education Amendment of 1988, requires the Bureau of Indian Affairs to (1) review guidelines used for determining whether plant conditions at a Bureau school constitute an immediate hazard to health and safety; and (2) issue regulations which shall be used by health and safety officers in making such determinations.

If a school is found, by a health and safety officer, to be an immediate hazard to health and safety, the school may be temporarily closed or consolidated or the programs substantially curtailed. The draft set of regulations in Exhibit 1-A are the proposed criteria to be used by health and safety officers in determining whether or not plant conditions at Bureau funded schools (workplaces) constitute an immediate hazard to health and safety.

- QUESTIONS:**
1. Are there any sections of the proposed rule which need more clarification?
 2. Are there any sections of the proposed rule which may not address a situation in your particular community?

[4310-02]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 50

RIN: 1076 - AC31

Safety and Health Inspection Program

AGENCY: Bureau of Indian Affairs, Interior

ACTION: Proposed rule.

SUMMARY: The Bureau of Indian Affairs is publishing a proposed rule which will add a new Part 50 to Subchapter E of 25 CFR, entitled Safety and Health Inspection Program. This proposed rule establishes the requirements for determining whether plant conditions at a Bureau funded workplace constitute an immediate hazard to health and safety. The Bureau is mandated to develop a rule for a Safety and Health Inspection Program in accordance with recent statutory requirements. DATES: Comments are to be received on or before 90 days from the of publication in the FEDERAL REGISTER.

ADDRESSES: Mail or handcarry comments to Bureau of Indian Affairs, Division of Safety Management, P.O. Box 2186, Albuquerque, New Mexico 87103.

FOR FURTHER INFORMATION CONTACT: Charles Jaynes, Division of Safety Management, P.O. Box 2186, Albuquerque, New Mexico 87103.

SUPPLEMENTAL INFORMATION: This proposed rule is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary - Indian Affairs by 209 DM 8.

The policy of the Department of the Interior is, whenever practical, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments

regarding the proposed rule to the location identified in the "ADDRESSES" section of this preamble.

This Rule has been reviewed under Executive Order 12866. This Rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601, et seq.). Additionally, the Department has determined that this proposed rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and a detailed statement is not required pursuant to the National Environment Policy Act of 1969.

This proposed rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501, et seq.

The Department has certified to the Office of Management and Budget that these proposed regulations meet the applicable standards provided in Sections 2(a) and 2(b)(22) of Executive Order 12778.

In accordance with Executive Order 12630, the Department has determined that this rule does not have significant takings implications.

In accordance with Executive Order 12612, the Department has determined that this rule does not have significant federalism effects.

BACKGROUND

The Indian Education Amendments of 1988 (Public Law 100-297) amended Section 1125 of the Education Amendments of 1978 (25 U.S.C. 2005) by adding a new subsection which states that: "A Bureau school may be closed or consolidated, and the programs of a Bureau school may be substantially curtailed, by reason of plant conditions that constitute an immediate hazard to health and safety only if a health and safety officer of the Bureau determines that such conditions exist at the Bureau school." In making determinations on plant conditions before July 1, 1989, the health and safety officers of the Bureau were required to use the guidelines of the Bureau which were in effect on January 1, 1988.

BASIS FOR PROPOSED RULE

The Indian Education Amendments of 1988, required the Bureau of Indian Affairs to review the guidelines used for determining whether plant conditions at a Bureau workplace constitute an immediate hazard to health and safety. The basis of the requirements identified in these proposed regulations are the health and safety guidelines that are currently in effect within the Bureau of Indian Affairs, as published in 25 Bureau of Indian Affairs Manual (BIAM), Supplement 18, which are based on the standards developed by, but not limited to, the Occupational Safety and Health Act of 1970, as amended; National Fire Protection Association Fire Codes (NFPA); Uniform Accessibility Standards; American Society of Mechanical Engineers Boiler and Pressure Vessel Codes (ASME); National Board Inspection Code; American National Safety Code for Elevators, Dumbwaiters, Escalators, and Moving Sidewalks; American National Standards Institute (ANSI); Uniform Building Code; Southern Building Code;

Uniform Plumbing Code; Uniform Mechanical Code; and American Society of Heating, Refrigerating and Air-Conditioning Engineers Standards (ASHRAE).

The primary author of these regulations is Charles Jaynes, Chief, Division of Safety Management, Bureau of Indian Affairs.

List of Subjects in 25 CFR Part 50: Facility conditions, Safety and Health inspections, Schools.

For the reasons set out in the preamble, a new Part 50 of Title 25, Chapter 1 of the Code of the Federal Regulations is proposed to be added as set forth below:

PART 50 -- SAFETY AND HEALTH INSPECTION PROGRAM

TABLE OF CONTENTS

Subpart A - General Requirements

Sec.

- 50.1 Purpose.
- 50.2 Scope.
- 50.3 Policy.
- 50.4 Definitions.
- 50.5 Information collection.

Subpart B - Safety and Health Code Standards

Sec.

- 50.10 General standards.
- 50.11 Boiler and pressure vessels.
- 50.12 Elevators.
- 50.13 Piping.
- 50.14 Mechanical systems.
- 50.15 Electrical.
- 50.16 Environmental quality..
- 50.17 Plumbing.
- 50.18 Highway and bridge design and construction.
- 50.19 Airports and runways.
- 50.20 Pipelines.

Subpart C - Occupancy of Facilities

Sec.

- 50.40 Occupancy classification of facilities.
- 50.41 New construction.
- 50.42 Occupancy changes in existing facilities.
- 50.43 Unoccupied and unused hazardous facilities.

Subpart D - Safety and Health Code Compliance

Sec.

- 50.60 Inspections during planning and construction.

Subpart E - Compliance Inspections and Complaints

Sec.

- 50.80 Inspection process.
- 50.81 **Types** of inspections.
- 50.82 **Safety** complaint process.
- 50.83 Code exceptions.

AUTHORITY: 25 U.S.C. 2, 9, 13; 25 U.S.C. 2005(a) and (b); 25
U.S.C. 2010.

Subpart A - General Requirements

Section 50.1 Purpose.

This rule provides the authority, policy, responsibility, and scope for execution of the Bureau of Indian Affairs' Safety and Health Inspection Program. The rule shall be applied for the purpose of bringing all bureau workplaces, including contract schools, into compliance with adopted safety, health and handicapped accessibility standards.

Section 50.2 Scope.

(a) The requirements of this part apply to all bureau facilities and schools whose educational programs are funded and operated, either directly or through a contract/grant, by the Bureau of Indian Affairs' Indian School Equalization Program (ISEP).

(b) The Bureau of Indian Affairs is involved in the operation, construction, major repair and alteration, rehabilitation and remodeling of buildings, plants and facilities. Most states and local governments have adopted safety and health codes which provide

minimum standards to safeguard life or limb, health, property and public welfare by regulating and controlling the design, construction, quality of materials, use, occupancy, location and operation and maintenance of all buildings, plants and facilities within their jurisdiction. The Division of Safety Management is the office within the Bureau of Indian Affairs with authority for enforcement of the codes adopted herein.

(c) Any space affected by this part which is assigned by the General Services Administration shall comply with the requirements of this Part before acceptance and occupancy by the Bureau.

(d) The Safety and Health Inspection Program shall apply to the planning, programming, design, construction, alteration, repair, equipment, use and occupancy, location, maintenance, removal and demolition, of every building, site, utility, or structure or any appurtenances connected or attached to such buildings or structures affected by this Part.

Section 50.3 Policy.

The Bureau of Indian Affairs' policy is to assure that all operations, new construction, major alterations and improvements, minor remodeling, maintenance and program operations comply with applicable Federal regulations and guidelines, and national model codes and standards adopted by the Bureau which address safety and health issues.

Section 50.4 Definitions.

As used in this Part:

Abatement means the necessary corrective action required to

eliminate a hazard or condition which does not comply with Bureau adopted safety and health codes, standards, regulations and guidelines.

Agency Superintendent for Education means the official in charge of an Agency Education Office location which has within its jurisdiction Bureau-funded schools.

Area Education Programs Administrator means the official in charge of an Area Education Office which has within its jurisdiction Bureau-funded schools.

Board of Review means the administrative group within the Bureau with responsibility for reviewing complaints on appealable decisions of a Safety and Health official. The Board shall be appointed by the Deputy Commissioner of Indian Affairs.

Deputy means the Bureau's Deputy Commissioner of Indian Affairs who has the overall responsibility for implementing and enforcing compliance with the Bureau's adopted safety and health codes, standards, regulations, and guidelines.

Division of Safety Management means the division within the Bureau's Office of Administration which has jurisdictional authority for the Health and Safety Inspection Program, and is responsible for developing, interpreting, implementing, and enforcing the regulations and procedures of the program.

Imminent Danger means that dangerous conditions or practices exist which could reasonably be expected to cause death or serious physical harm and that restraints are needed before the imminence of such danger can be eliminated through enforcement procedures.

Office Directors means the Area Directors, and Office Directors appointed by the Assistant Secretary - Indian Affairs and their

respective subordinates who are responsible for operating Bureau programs under their jurisdiction in compliance with the safety and health codes, standards, regulations and guidelines adopted by this Part.

Responsible Official means the Bureau official with operational authority and responsibility for the facility, workplace, school, contract, etc.

Section 50.5 Information collection.

This rule does not contain information collection requirements which require approval of the Office of Management and Budget under 44 U.S.C. 3501 et seq.

Subpart B - Safety and Health Code Standards

Section 50.10 General standards.

The codes and standards adopted in this subpart govern the use, construction, and modification of all buildings, plants and facilities which are funded by the Bureau of Indian Affairs, regardless of whether that function is operated directly by the Bureau or under contract/grant. All operations, new construction, major alterations and improvements, minor remodeling, and workplace sites shall be classified according to occupancy and/or use, and shall comply with:

(a) Occupational safety and health standards in 29 CFR 1960.17 issued under Section 6 of the Occupational Safety and Health Act of 1970, as amended, or alternate standards issued pursuant to this part.

(b) The National Fire Codes and the Structural Fire Prevention guidelines issued by the Bureau in 25 BIAM Supplement 19.

(c) Uniform Federal Accessibility Standards as codified in 41 CFR Part 101-19.6.

(d) The current edition of the Uniform Building Code, except where the Uniform Building Code conflicts with the National Fire Protection Association (NFPA) Fire Codes, the provisions of NFPA fire codes shall apply.

(e) The current edition of the Southern Building Code, except where the Southern Building Code conflicts with the Uniform Building Code, the more stringent of the Codes shall apply.

Section 50.11 Boiler and pressure vessels.

(a) The fabrication and installation of all new boiler and unfired pressure vessels shall conform in all respects to the American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code and shall be marked with the appropriate ASME code symbols.

(b) The repair, alterations or rerating of all existing units shall conform to the National Board Inspection Code and shall be marked with appropriate code symbols.

(c) In each situation, the final product shall be inspected by an inspector holding a Certificate of Competency issued by an agency duly authorized by the National Board of Boiler and Pressure Vessel Inspectors.

Section 50.12 Elevators.

(a) All passenger and freight elevators, dumbwaiters, escalators, or moving sidewalks constructed or leased for bureau

facilities, including contract schools, shall conform to the ASME American National Safety Code for Elevators, Dumbwaiters, Escalators, and Moving Sidewalks.

(b) Safety enforcement for new elevator installations, as well as inspections and posting of a Certificate of Inspection, shall be the responsibility of the Division of Safety Management.

Section 50.13 Piping.

(a) Boiler/Pressure Vessel external piping and piping installations shall conform to the following standards:

- (1) American National Standards Institute (ANSI) B31.1;
- (2) American National Standard, Power Piping;
- (3) ASME Boiler and Pressure Vessel Code, Section I
- Power Boilers;
- (4) ASME Boiler and Pressure Vessel Code, Section IV
- Heating Boilers; and
- (5) ASME Boiler and Pressure Vessel Code, Section VIII - Pressure Vessels, Division I.

(b) The piping or associated mechanical system shall not be operated unless that part of the system has been inspected and approved by the Division of Safety Management or its designated representative.

(c) Other fuel piping, steam and water piping, air piping and their respective installations shall conform to applicable sections of the Uniform Plumbing Code and the Uniform Mechanical Code.

Section 50.14 Mechanical systems.

(a) Liquefied petroleum gas heating systems and distribution shall conform to National Fire Protection Association (NFPA) No. 58, 85, and 86.

(b) Natural gas systems shall comply with NFPA No. 54, 85, and 86.

(c) Oil burning system installations shall conform to NFPA No. 31, 85, and 86.

(d) Electrical heating and cooling systems shall be installed in accordance with the National Electrical Code. Each piece of equipment shall bear the Underwriter's Laboratory (UL) label.

(e) Solar installations shall be installed in accordance with the Uniform Solar Code and the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) Standards.

(f) Cooling and ventilation systems shall conform to the Uniform Mechanical Code.

Section 50.15 Electrical.

Electrical power transmission, distribution and installation shall comply with the National Electrical Code (NFPA No. 70) and the National Electrical Safety Code.

Section 50.16 Environmental quality.

(a) Food service. All new construction, major alterations and improvements, and minor remodeling and operation of food service facilities shall conform to the guidelines set forth in the latest edition of the Public Health Service (PHS), Food Services Sanitation Manual.

(b) Sanitation facilities. All new construction, major alterations and improvement, and minor remodeling of sanitation facilities shall conform to the following guidelines:

(1) Liquid waste. Applicable parts of 40 CFR, Protection of the Environment; and 29 CFR Part 1910, Occupational Safety and Health Standards.

(2) Solid waste. Applicable parts of 40 CFR, Protection of the Environment.

(c) Water facilities. All new construction, major alterations and improvements, and minor remodeling of domestic water facilities shall conform to the requirements of Titles 29 and 40 of the Code of Federal Regulations.

(d) Illumination. All new construction, major alterations and improvements, and minor remodeling shall provide facilities which conform to:

(1) The Illuminating Engineering Society Standards and Regulations on Illumination;

(2) The provisions of 29 CFR 1910; and

(3) The provisions of Public Health Service (PHS) Institutional Sanitation Guidelines.

(e) Heating, ventilation and air conditioning (HVAC). All new construction, major alterations and improvements, and minor remodeling of bureau facilities, including contract schools, shall conform to minimum requirements given in the Uniform Mechanical Code and ASHRAE Standards.

(f) Pest, vector and vermin control. All new construction, major alterations and improvements, and minor remodeling shall provide facilities which conform to regulations on

pest, vector, and vermin control included in 29 CFR Parts 162, 163, 165, 170 and those provisions outlined in the PHS Food Services Sanitation Manual and PHS Institutional Sanitation Guidelines.

Section 50.17 Plumbing.

(a) All plumbing installations, equipment and fixtures shall comply with the Uniform Plumbing Code.

(b) Plumbing shall be subject to periodic and final inspections to assure compliance.

Section 50.18 Highway and bridge design and construction.

The Bureau has adopted the design standards of the American Association of State Highway Officials (AASHO). The current edition of the following publications shall be enforced in all highway and bridge design and construction:

- (a) "A Policy on Geometric Design of Rural Highways;"
- (b) "Geometric Design Standards for Highways Other than Freeways;"
- (c) "Geometric Design Guide for Local Roads and Streets;"
- (d) "Highway Design and Operational Practices Related to Highway Safety;"
- (e) "Standard Specifications for Highway Bridges;"
- (f) "A Policy on Design Standards for Stopping Sight Distance;" and
- (g) The Federal Highway Administration's "Manual on Uniform Traffic Control Devices for Streets and Highways."

Section 50.19 Airports and runways.

Every airport or runway designed, constructed, repaired or maintained by the Bureau at or near a school location shall comply with the provisions of Title 14 of the Code of Federal Regulations.

Section 50.20 Pipelines.

Pipelines used to transport hazardous materials, including natural and other gas and liquids, shall be designed, constructed, operated, maintained, tested and repaired as required in 49 CFR Subchapter C, Parts 172 and 173; and Subchapter D, Parts 190, 191, 192, and 195.

Subpart C - Occupancy of Facilities

Section 50.40 Occupancy classification of facilities.

(a) Every facility, whether existing or new construction, shall be classified by the Division of Safety Management according to its use or the character of its occupancy as defined in the model building and fire codes. Any occupancy not mentioned or about which there is any question shall be classified by the Division of Safety Management or its authorized representative.

(b) Bureau facilities, including contract schools, shall also be assigned a hazard classification, with "ordinary hazard" being the minimum risk factor. "Ordinary Hazard" has been adopted as the minimum risk factor due to the remote locations of many school facilities, and the limited amount of fire protection available. The Bureau Fire Marshal may reduce the hazard rating of specific facilities which are not affected by those problems upon review of materials submitted with a request for a reduction in hazard classification.

Section 50.41 New construction.

New construction shall conform to the safety standard and/or code edition in effect on the date the design contract is awarded, if the construction contract is bid within two years of that date. If not, drawings and specifications shall be modified for compliance to existing codes and resubmitted to the Division of Safety Management for approval.

Section 50.42 Occupancy changes in existing facilities.

Whenever a facility occupancy is changed, either through use, remodeling, redecorating, or relocation, the responsible official shall request a safety and health inspection by the Area Safety Manager or, if there is no Area Safety Manager, by the Division of Safety Management.

Section 50.43 Unoccupied and unused hazardous facilities.

Any unoccupied or unused hazardous facility shall be inspected and evaluated by the Division of Safety Management or its authorized representative. The unoccupied and unused building, plant or facility shall be demolished or managed in accordance with Bureau guidelines contained in 43 BIAM Supplement 2, Real Property Management Regulations.

Subpart D - Safety and Health Code Compliance

Section 50.60 Inspections during planning and construction.

Bureau operation, planning, programming, design, construction, alteration or remodeling of bureau facilities, including contract

schools, shall comply with minimum requirements of the Safety and Health Inspection Program. The responsible official shall submit to the Division of Safety Management for review each of the project documents specified below. The Chief, Division of Safety Management, may waive the requirement for review of any documents if he/she determines that safety compliance can be assured without such a review. Except as noted below, the responsible official shall submit two copies of the required material.

(a) Program of Requirements (POR). The program of requirements is prepared by or under direction of a Bureau design office to provide instruction and criteria to the designers of the project. The responsible official shall submit this document for review before submission to the project designers to assure that the POR complies with all applicable safety and health requirements. In addition, consideration will be given to such items as: availability and quality of potable and fire suppression water, foundation characteristics, seismic zone, radiologic conditions, availability of commercial utilities and similar items.

(b) Design development documents. The responsible official shall submit these documents for review to ensure that all bureau facilities, including contract schools, and design assumptions comply with the Life Safety Code and to ensure compatibility with existing site conditions.

(c) Preliminary construction documents. When the project is 70 percent complete, the responsible official shall submit all design, field test information, and computations, and obtain Division of Safety Management approval before final plans and specifications may be developed.

(d) Final construction documents. After the project design is completed and before the project is advertised for bid, the responsible official shall submit one copy of all final construction plans, specifications, and all other documents constituting the technical portion of the bid document.

(e) Change orders. The responsible official shall submit all construction change orders for safety compliance review before they may become effective.

(f) Shop drawings. The responsible official shall submit all shop drawings to be reviewed for safety compliance. Any shop drawings not in compliance shall be modified and resubmitted for review and final approval.

(g) Fire alarm and fire sprinkler systems specifications. The responsible official shall submit these specifications at the preliminary and final design stages.

Subpart E - Compliance Inspections and Complaints

Section 50.80 Inspection process.

(a) Frequency of inspections and evaluations.
The Division of Safety Management or its authorized representative shall conduct annual inspections and evaluations of all bureau facilities, including contract schools, to ensure that those facilities and operations are in compliance with safety and health codes, standards, regulations and guidelines. In addition, other inspections shall be conducted in accordance with paragraph (b).

(b) Imminent danger.
If an imminently dangerous condition is identified by the inspectors,

they shall notify the responsible official, who shall issue a stop work order immediately. Work shall not resume until the condition has been abated.

(c) Enforcement.

If a condition or hazard in a workplace poses potential injury or harm or has resulted in injury or death to employees, students, or the visiting public, or serious property damages or losses, the responsible official shall be notified of the condition or hazard by the Division of Safety Management. The official shall be required to abate the condition within 30 calendar days or the period of time set forth in the notice.

Section 50.81 Types of inspections.

(a) Construction or new equipment inspections.

All BIA facilities and school facilities operated under contract with the Bureau will be inspected by the Division of Safety Management or its authorized representative after installation of new equipment, acceptance of new construction, or completion of major rehabilitation work. Where deficiencies are cited, the responsible official shall submit an abatement plan and approximate date of completion.

(b) Workplace inspection and evaluation.

The responsible official shall conduct annual inspections and evaluations to assure that all BIA workplaces are in compliance with this Part. He/she shall issue a report of deficiencies found and a plan for their abatement and forward a copy to the Division of Safety Management.

(c) Boiler inspections.

The Division of Safety Management shall inspect all new boiler

installations and rehabilitations or repairs in Bureau of Indian Affairs facilities and schools operated under contract with the Bureau. If any deficiencies are identified, the boiler may not be operated until satisfactory repairs are made and the Division grants written approval for operation.

(d) Roads and airfields.

The Division of Safety Management shall be represented during the final inspections of road or airfield construction.

(e) Industrial hygiene monitoring.

When the responsible official suspects that employees may be exposed to toxic or hazardous substances or conditions, he/she shall request the Division of Safety Management to determine if such substances or conditions exist. The responsible official shall immediately initiate corrective action if necessary.

(f) Citations.

(1) If there exists a hazard or condition which does not comply with these adopted safety and health codes and standards, the Division of Safety Management or its authorized representative shall issue a citation identifying the condition or hazard, and the applicable code and/or standard violation. The citation will also state the date by which the condition or hazard must be abated.

(2) If a citation is issued to a workplace for code noncompliance, and no abatement plan is filed, the cost of the follow-up inspection team travel shall be assumed by that workplace.

Section 50.82 Safety complaint process.

(a) Safety and health complaints.

When the responsible official receives an employee complaint of

unsafe or unhealthful working conditions, he/she shall initiate a safety and health inspection of the condition. A report of the findings and a plan to abate the condition shall be submitted to the Division of Safety Management.

(b) Complaints about inspection decisions and recommendations.

(1) Any individual may file a complaint on the inspection decisions and recommendations of the Bureau's Safety and Health Official

(2) A complaint shall be filed, in writing and specifying the grounds of the complaint, to the Board of Review within 30 calendar days from the date of an appealable decision with a copy of the complaint transmitted to the Safety and Health Official.

(3) The Division of Safety Management shall transmit to the Board of Review, within 10 working days after a complaint is filed with the Board, all documents on which the action was based.

(4) The Board of Review shall make a written determination within 60 calendar days of receipt of the complaint, except that in the case of a building or structure which, in the opinion of the Safety and Health official, is unsafe or dangerous, the Board of Review shall reach a decision on the complaint in a shorter period of time.

(5) The decision of the Board of Review, and the results of the vote, will be provided by certified mail, return receipt requested, to the complainant and a copy shall be placed on file in the office of the Division of Safety Management and be kept available for public inspection for a minimum of two weeks after filing.

(6) If a decision of the Board of Review reverses or modifies a refusal, order, or disallowance of the Division of Safety Management, or varies the application of any of the provisions of the Safety and Health Codes and Standards, the Division of Safety Management shall immediately take action in accordance with such decision.

Section 50.83 Code exceptions.

(a) The Division of Safety Management shall determine the adequacy of safety provisions in accordance with the safety and health codes adopted in this Part. In cases of practical difficulty or unnecessary hardship, the Deputy Commissioner of Indian Affairs may grant exceptions from these codes on a case-by-case basis, but only when it is clearly evident that safety is thereby secured.

(b) The exception may be revoked by the Deputy Commissioner of Indian Affairs if and when the safety and health conditions of a bureau workplace pose an imminent danger. The revocation and effective date shall be provided, in writing, to the responsible official with a copy transmitted to the appropriate Area and Agency officials.

Assistant Secretary - Indian Affairs

Date

CONSULTATION ITEM 2

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CONSULTATION ITEM/TOPIC:

Bureau of Indian Affairs FY 95-97 State Plan for Exceptional Education Programs.

POTENTIAL ISSUE OR CHANGE:

To meet the requirements of the Individuals with Disabilities Education Act (IDEA) as amended.

REASON FOR PROPOSING ISSUE OR CHANGE:

In order for the Bureau to receive funds under Part B of the Act, it must submit an application which shall be effective for a period of three fiscal years. The application must include in detail the policies and procedures that the Bureau will undertake to ensure that free appropriate public education (FAPE) is available for all children with disabilities aged 5 through 21.

CURRENT OPTION(S) BEING CONSIDERED BY THE BUREAU:

To submit after tribal consultation, an application to the Department of Education for approval.

BACKGROUND

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In order for the Bureau to receive funds under Part B of P.L. 101-476, the Individuals with Disabilities Education Act (IDEA) as amended, it must submit a State Plan to the Department of Education for approval. The Plan must meet the following requirements:

1. Eligibility

The Bureau must have in effect policies and procedures that assures all Indian children with disabilities the right to a free appropriate public education (FAPE). All children with disabilities, regardless of the severity of the disability, and who are in need of special education and related services are identified, located, and evaluated.

Policies and procedures are established to assure the protection of the confidentiality of any personally identifiable data, information, and records collected or maintained.

The Plan must be available to parents, guardians, and other members of the general public at least thirty days prior to the date of submission to the Commission.

Records must be maintained of the individualized education program for each child with a disability, and such program shall be established, reviewed, and revised as provided in section 614(a)(5) of the Act.

The Bureau shall establish procedural safeguard procedures to assure that to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who have no disabilities and that special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature of severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. Procedures are developed to assure that testing and evaluation materials and procedures utilized for the purposes of evaluation and placement of children with disabilities will be selected and administered so as not to be racially or culturally discriminatory. Such materials or procedures shall be provided and administered in the child's native language or mode of communication, unless it clearly is not feasible to do so, and no single procedure shall be the sole criterion for determining and appropriate educational program for a child.

2. **State Plan**

The Bureau must submit a State plan. The plan shall:

Provide that programs and procedures are established to assure that funds received by the Bureau are utilized only in a manner consistent with the goal of providing a free appropriate public education for all children with disabilities.

Set forth a description of programs and procedures for the development and implementation of a comprehensive system of personnel development which shall include the inservice training of general and special education instructional and support personnel, detailed procedures to assure that all personnel necessary to carry out the purposes of this Act are appropriately and adequately prepared and trained, and effective procedures for acquiring and disseminating to teachers and administrators of programs for children with disabilities significant information derived from educational research, demonstration, and similar projects and adopting, where appropriate, promising educational practices and materials development through such projects.

Set forth policies and procedures to assure that children with disabilities in private schools and facilities are provided special education and related services (in conformance with an individualized educational program as required by this part) at no cost to their parents or guardian, if such children are placed in or referred to such schools or facilities by the Bureau as the means of carrying out the requirements of this part. The Bureau shall determine whether such schools and facilities meet standards that apply to Bureau funded schools and that children so served have all the rights they would have if served by the schools.

Provide assurances that the control of funds provided under this part, and title to property derived therefrom, shall be for the uses and purposes provided in this part.

Provide for making reports containing information as may be required to carry out the functions under this part and affording access as necessary to assure the correctness and verification of such reports and proper disbursement of Federal funds under this part.

Provide assurance that fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of and accounting for Federal funds paid under this part to the Bureau.

Provide for procedures for evaluation at least annually of the effectiveness of programs in meeting the educational needs of children with disabilities.

Provide that the Bureau has an advisory panel, appointed by the Secretary, Department of Interior, composed of individuals involved in or concerned with the education of children with disabilities, including individuals with disabilities, teachers, parents or guardians of children with disabilities, Bureau and local

education officials, and administrators of programs for children with disabilities, which advises the Bureau of unmet needs and comments publicly on any rules or regulations proposed for issuance by the Bureau regarding the education of children with disabilities and the procedures for distribution of funds under this part and assists the Bureau in developing and reporting such data and evaluations as may assist the Secretary.

Set forth policies and procedures for developing and implementing interagency agreements between the Bureau and other appropriate Federal, State and local agencies to define the financial responsibility of each agency for providing children with disabilities a free appropriate public education.

Policies and procedures relating to the establishment and maintenance of standards to ensure that personnel necessary to carry out the purposes of this part are appropriately prepared and trained, including:

The establishment and maintenance of standards which are consistent with any State approved or recognized certification, licensing, registration, or other comparable requirements which apply to the area in which he or she is providing special education or related services; and

To the extent such standards are not based on the highest requirements in the State applicable to a specific profession or discipline, the steps the Bureau is taking to require the retraining or hiring of personnel that meet appropriate professional requirements of the State.

3. Applications

A Bureau funded school which desires to receive payments under section 611(d) for any fiscal year shall submit an application. Such application shall:

Provide satisfactory assurance that payments under this part will be used for excess costs directly attributable to programs which:

Provide that all children enrolled in the Bureau funded schools who have disabilities, regardless of the severity of the disability, and are in need of special education and related services are identified, located and evaluated.

Establish policies and procedures to assure the protection of confidentiality of any personally identifiable data, information, and records collected or maintained.

Provide satisfactory assurance that the control of funds provided under this part, and title to property derived from such funds shall be for the use and purposes

provided in this part and that the school will administer such funds and property. The Federal funds expended by the schools under this part shall be used to pay only the excess costs directly attributable to the education of children with disabilities and shall be used to supplement and to the extent practicable, increase the level of the base ISEP funds expended for the education of children with disabilities and in no case to supplant such funds. The funds will be used to provide services which are at least comparable to services being provided in areas which are not receiving funds under this part.

Provide for furnishing such information as may be necessary to enable the Bureau to perform its duties under this part, including information relating to the educational achievement of children with disabilities participating in programs carried out under this part.

Provide for keeping records and affording access to such records as the Bureau may find necessary to assure the correctness and verification of such information.

Provide for making the application and all pertinent documents related to such application available to parents, guardians, and other members of the general public, and provide that all evaluations and reports required shall be public information.

Provide assurances that the school will establish or revise, whichever is appropriate, and individualized education program for each child with a disability at the beginning of each school year and will then review, and if appropriate revise, its provisions periodically, but not less than annually.

Provide satisfactory assurances that the school will establish and maintain procedural safeguards.

4. Meets the requirements of 34 CFR Part 300.260 that implement the sections of the Act described in paragraphs 1 through 3.
5. Include a description of how the Secretary of Interior will coordinate the provision of services under this part with LEAs, tribes and tribal organizations, and other private and Federal service providers;
6. Include assurance that there are public hearings, adequate notice of such hearings, and an opportunity for comment afforded to members of tribes, tribal governing bodies, and affected local school boards before the adoption of the policies, programs, and procedures;
7. Includes an assurance that the Secretary of the Interior will provide such information as the Secretary may require to comply with section 618(b)(1) of the Act, including data on the number of children and youth with disabilities served and the types of amounts of services provided and needed;

8. Include assurance that the Secretaries of the Interior and Health and Human Services will enter into a memorandum of agreement to be provided to the Secretary, for the coordination of services, resources, personnel between their respective Federal, State, and local offices and with SEAs and LEAs and other entities to facilitate the provision of services to Indian children with disabilities residing on or near reservations. That agreement must provide for the apportionment of responsibilities and costs, including, but not limited to, those related to child find, evaluation, diagnosis, remediation or therapeutic measures, and (where appropriate) equipment and medical or personal supplies or both, as needed for a child to remain in school or program;
9. Include assurance that the Department of Interior will cooperate with the Department of Education in the latter's exercise of monitoring and oversight of the application, and any agreements entered into between the Secretary of the Interior and other entities under the Act and will fulfill its duties under the Act.

In the development of the application for the Department of Interior, the Secretary of the Interior, the Secretary of the Interior shall provide for public participation consistent with 34 CFR §300.280-300.264.

The State Plan document is too large for inclusion in the Tribal Consultation Booklet. The document shall be available at each Education Line office for review thirty (30) days prior to the Consultation Hearings. The document shall also be available on site at each Consultation hearing.

Questions:

1. What comments or recommendations do you have regarding the Bureau's State Plan?

CONSULTATION ITEM 3

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CONSULTATION ITEM/TOPIC:

Proposed change to the Intensive Residential Guidance (IRG) Criteria (25 CFR 39.11)

POTENTIAL ISSUE OR CHANGE:

Proposal to change the requirements of those who may make IRG referrals and who may make referral reports as specified in 25 CFR 39.11.

REASON FOR PROPOSING ISSUE OR CHANGE:

It is the position of the Bureau that many students needing unique professional therapy qualify for IRG, including those students from backgrounds of abuse/neglect, and/or alcohol/drug abuse. Those students often arrive at school as a result of family preference rather than from placement by the state or courts.

CURRENT OPTION(S) BEING CONSIDERED BY THE BUREAU:

To include Physicians, Guidance Counselors, School Psychologists, Medical Social Workers and School Counselors with those specified by 25 CFR 39.11 who make referrals and/or recommendation of students for IRG program participation.

BACKGROUND

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Currently students may be referred for Intensive Residential Guidance only by a licensed psychologist, psychiatrist, or certified psychiatric social worker as an emotionally disturbed student. Additionally, authorized referral reporting officials are limited to psychologists, certified psychiatric social workers or psychiatrists. This proposal would include licensed and/or certified professionals such as Physicians, Guidance Counselors, School Psychologists, Medical Social Workers and School Counselors as having authorization to make recommendations and/or referrals for students in need of Intensive Residential Guidance services.

The Bureau suggests that those students who are subjected to abuse/neglect and to substance abuse require unique professional therapy and/or counseling, therefore they should be allowed to receive Intensive Residential Guidance services. By making the proposed change, students in genuine need will be eligible to receive services and the Bureau will cease hindering licensed social workers and behavioral counselors from diagnosing student need by eliminating an overly restrictive definition of those authorized to refer students.

EXHIBIT 3-A

INTENSIVE RESIDENTIAL GUIDANCE

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25 CFR § 39.11 (h)(1)(iii)

CURRENT	PROPOSED
<i>(iii) Referral by a licensed psychologist, psychiatrist, or certified psychiatric social worker as an extremely emotionally disturbed student.</i>	(iii) Referral by a licensed psychologist, psychiatrist, certified psychiatric social worker as an emotionally disturbed student, or referral by a licensed/certified professional (For Example: Physician, Guidance Counselor, School Psychologist, Medical Social Worker or School Counselor) that the student is from an abused or neglected background, or from an alcohol/drug addicted family, and in need of specialized therapy or social skills.

EXHIBIT 3-B

INTENSIVE RESIDENTIAL GUIDANCE

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25 CFR § 39.11 (h)(2)(iii)

CURRENT	PROPOSED
<i>(iii) Psychologist, certified psychiatric social worker, or, psychiatric report, or...</i>	(iii) Psychologist, certified psychiatric social worker, psychiatrist, or licensed/certified professional (For Example: Physician, Guidance Counselor, School Psychologist, Medical Social Worker or School Counselor) report; or...

CONSULTATION ITEM 4

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CONSULTATION ITEM/TOPIC:

Establishment of a Tribal/BIA Higher Education Scholarship Directors Association.

POTENTIAL ISSUE OR CHANGE:

To create a National Tribal/BIA Higher Education Scholarship Directors Association.

REASON FOR PROPOSING ISSUE OR CHANGE:

Previous consultation meetings and direct contact with Tribal Higher Education contractors has indicated that there is a great need for an organization at the national level that will serve as an advocate to assist Higher Education Directors in describing and identifying specific issues and program needs and in directing those issues and needs to the appropriate organization(s) and/or individuals.

CURRENT OPTION(S) BEING CONSIDERED BY THE BUREAU:

To organize a National Association of Tribal/BIA Higher Education Scholarship Directors.

BACKGROUND

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The Office of Indian Education Programs recognizes the absence of a nationally organized body of Tribal/BIA Higher Education Program Administrators. With the establishment of such an association, the BIA believes that partnerships in education between the Bureau and Tribal education departments could develop. This would be in keeping with the goals established at White House Conference on Indian Education. This association might also provide a vehicle by which both training and advocacy in the area of post secondary education could be accomplished. It should be noted that at the present time there is no budgetary line item to permit financial support for this proposed organization.

The purpose of proposing this consultation item/concept to Indian Country is to determine the feasibility of and/or desire for creating such an organization.

- QUESTIONS:**
1. Should the BIA arrange for an initial meeting where by the BIA provides technical assistance in establishing a Constitution and By-laws and where the election of officials takes place?
 2. Who should provide overall guidance and direction for such an organization should it be established and how much involvement should the BIA have in that organization?

CONSULTATION ITEM 5

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CONSULTATION ITEM/TOPIC:

**Establishment of a Johnson O'Malley
Program Directors Association**

POTENTIAL ISSUE OR CHANGE:

**To create a National Tribal/BIA Johnson
O'Malley (JOM) Directors Association**

**REASON FOR PROPOSING ISSUE OR
CHANGE:**

**Previous consultation meetings and
direct contact with JOM Directors has
indicated that there is a great need for
an organization at the national level for
this program that will serve as an
advocate to assist JOM Directors in
describing and identifying specific issues
and program needs and in directing
those issues and needs to the appropriate
organization(s) and/or individuals.**

**CURRENT OPTION(S) BEING
CONSIDERED BY THE BUREAU:**

**To organize a National Association of
Johnson O'Malley Program Directors.**

BACKGROUND

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The Office of Indian Education Programs recognizes the absence of a nationally organized body of Johnson O'Malley (JOM) Program Directors. With the establishment of such an association, the BIA believes that partnerships in education between the Bureau and Tribal education departments could develop. This would be in keeping with the goals established at the White House Conference on Indian Education. This association might also provide a vehicle by which both training and advocacy in the area of Johnson-O'Malley public school programs could be accomplished. It should be noted that at the present time there is no budgetary line item to permit financial support for this proposed organization.

The purpose of proposing this consultation item/concept to Indian Country is to determine the feasibility of and/or desire for creating such organizations.

- QUESTIONS:**
1. Should the BIA arrange for an initial meeting where by the BIA provides technical assistance in establishing a Constitution and By-laws and where the election of officials takes place?
 2. Who should provide overall guidance and direction for such an organization should it be established and how much involvement should the BIA have in that organization?
 3. How should the BIA fulfill the advocacy role for eligible Indian students enrolled in Public Schools?

CONSULTATION ITEM 6

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CONSULTATION ITEM/TOPIC:

Portable Classroom Program

POTENTIAL ISSUE OR CHANGE:

Should the Portable Classroom Program be continued after FY 1994? If so, what should be the scope of the program and what criteria and procedures should be used.

REASON FOR PROPOSING ISSUE OR CHANGE:

To determine whether Indian tribes and tribal organizations consider the Portable Classroom Program a beneficial facilities program that should be continued and whether there should be changes to the program, criteria or procedures.

CURRENT OPTION(S) BEING CONSIDERED BY THE BUREAU:

The Bureau is proposing to continue the Portable Classroom Program beyond FY 1994 and to use the same criteria under which requests were prioritized in FY 1993/FY 1994. Basically, the same procedures would be followed and a new priority list would be established every two years.

BACKGROUND

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In FY 1993 the Office of Construction Management with the Office of Indian Education Programs and the Facilities Management and Construction Center (FMCC) began, as a pilot project, a Portable Classroom Program. The purpose was to provide portable classrooms to meet the immediate needs of approved primary and secondary education programs operated and/or funded by the Office of Indian Education Programs, Bureau of Indian Affairs, that had overcrowded classrooms as a result of enrollment growth or unsafe and unhealthy classroom conditions.

Requests for portable classrooms in FY 1993/FY 1994 were prioritized based on the following criteria: Safety and Health, Programmatic Space Requirements, Increased Enrollment and Space Utilization Efficiency. If a Facilities Improvement and Repair or New Construction project was scheduled or planned for the school that would address all the classroom safety and health deficiencies or that would provide the additional needed classroom space or a portion of the additional needed classroom space, the request was not considered. **EXHIBIT 6-A**, summarizes the criteria and lists the point value.

The requests were reviewed and rated by an Evaluation Committee composed of Bureau education and facilities personnel. Based on the ratings of the Evaluation Committee, a priority list was established and used to determine which school locations will receive portable classrooms with FY 1993 and FY 1994 funding. When a school is reached on the priority list, all general classroom needs are met for that particular school location before proceeding to the next school on the list. **EXHIBIT 6-B**, provides a more detailed outline of the procedures proposed if the Portable Classroom Program is continued.

QUESTIONS:

1. Should the Bureau continue to request appropriated funding for the Portable Classroom Program?
2. Are the criteria used to prioritize schools for portable classrooms acceptable? Are there criteria listed that should not be used or should be decreased in point value? Are there criteria not listed that should be used to prioritize schools and what point value should be assigned.
3. Should school locations be prioritized more frequently, or less frequently, than every two (2) years? If schools were prioritized every year, updated information would have to be furnished each year and the priority list would change each year.

4. Should all the classroom needs for a particular school location be met before proceeding to the next school on the priority list; should there be a limit to the number of portable classrooms a particular school location receives based on the number or on the percentage of need; or, should one or two classrooms be furnished to each school on the list to the extent that appropriated funding permits?

EXHIBIT 6-A

SUMMARY RANKING CRITERIA AND ASSIGNED VALUES

CRITERIA	DESCRIPTION	VALUE
POTENTIAL FOR CORRECTING CLASSROOM DEFICIENCIES If there is a scheduled FY 1993, FY 1994, FY 1995 or FY 1996 new construction or facilities improvement and repair project that will address all the classroom safety and health deficiencies or which will provide the additional needed classroom space or a portion of the additional needed classroom space, your request will not be considered under this program.		
1	<u>SAFETY AND HEALTH</u> The percentage of students in unsafe or unhealthy classrooms. (Deficiencies must be in FACCOM Backlog System).	50
2	<u>PROGRAMMATIC SPACE REQUIREMENTS</u> The percentage of students affected by overcrowding as defined by education standards or accreditation reports.	40
3	<u>INCREASED ENROLLMENT</u> The percentage of an increase in student enrollment over the last 5 years in all approved grades.	30
4	<u>SPACE UTILIZATION EFFICIENCY</u> The current space utilization efficiency, as a percentage, of the school.	20
	TOTAL POSSIBLE VALUE	140

EXHIBIT 6-B

Portable Classroom Program

1.1 Purpose. The purpose of this document is to provide guidance for the Bureau's Portable Classroom Program under the Facilities Management Program.

1.2 Scope. The Portable Classroom Program is to provide classroom space, on a priority basis, that is in direct support of approved primary and secondary education programs operated and/or funded by the Office of Indian Education Programs, Bureau of Indian Affairs. The portables are only for use as general classrooms, not for kitchens, offices, gymnasiums, etc, and no special configurations for computer laboratories, science laboratories, or other specialized classrooms will be provided.

1.3 Authorities. 25 U.S.C. 2 and 13; 25 U.S.C. 2001 et seq.; and 25 U.S.C. 2501 et seq.

1.4 Policies and Standards.

A. Bureau-funded schools are to be in compliance with all applicable Federal, tribal, or state health and safety standards, whichever provides greater protection. (See 25 BIAM Supplement 18.)

B. Bureau-funded schools are to meet the educational needs of eligible Indian children, as defined in 25 U.S.C. § 2008(f). Facilities must accommodate the Bureau-funded education program needs in accordance with the Bureau Education Space Guidelines or state and/or regional accreditation requirements.

C. In providing portable classrooms, priority will be given:

(1) To addressing safety and health deficiencies requiring additional classroom space.

(2) To providing additional classroom space to meet increase needs as a result of enrollment growth.

1.5 Objective. The objective of the Portable Classroom Program is to provide additional classroom space on an immediate and interim basis to address safety and health deficiencies and/or to provide the additional classroom space or a portion of the additional classroom space, needed as a result of enrollment growth.

1.6 Requests for Portable Classrooms.

A. Bureau-funded primary and secondary schools, whether Bureau-operated or contract or grants schools may request portable classrooms to support Bureau approved education programs. Requests must be in writing and should be submitted on the Portable Classroom Information Sheet (Illustration 1).

B. The Director, Facilities Management and Construction Center (Director, FMCC) will be responsible for the priority ranking of requests for Portable Classrooms. Requests for Portable Classrooms will be rated and a priority list established every two (2) years.

C. The Director, FMCC, shall establish a deadline for submitting requests for priority ranking and shall notify all Bureau-funded schools and appropriate Indian tribes and tribal organizations of the priority ranking of requests for Portable Classrooms. The notification:

(1) Shall be sent by mail at least 120 days before the deadline for submitting requests.

(2) Shall state the deadline for submitting requests and the relevant procedures to be followed including the Ranking Criteria and Assigned Values to be used to priority rank the requests.

(3) Shall furnish a copy of the Portable Classroom Information Sheet and the Instructions for Completion of Portable Classroom Information Sheet (Illustration 1).

D. Requests for Portable Classrooms shall be submitted to the Director, FMCC. Requests that are incomplete or are received after the deadline will not be reviewed and considered for priority ranking.

1.7 Ranking Criteria and Assigned Values. If there is a new construction or facilities improvement and repair project scheduled for appropriated funding that will address all the classroom safety and health deficiencies or which will provide the additional needed classroom space or a portion of the additional needed classroom space, the request for portable classrooms will not be considered under this program. If not, requests will be priority ranked in accordance with the following criteria:

A. **SAFETY AND HEALTH (50 Points).** The percentage of students in unsafe or unhealthy classrooms. (Deficiencies must be in FACCOM Backlog System).

B. PROGRAMMATIC SPACE REQUIREMENTS (40 Points). The percentage of students affected by over-crowding as defined by education standards or accreditation reports.

C. INCREASED ENROLLMENT (30 Points). The percentage of an increase in student enrollment over the last 5 years in all approved grades.

D. SPACE UTILIZATION EFFICIENCY (20 Points). The current space utilization efficiency, as a percentage, of the school.

1.8 Priority Ranking of Requests for Portable Classrooms.

A. The Director, FMCC, shall establish an Evaluation Committee and designate a Chairperson to review and rank the requests in accordance with the Ranking Criteria and Assigned Values. The Committee should be comprised of two (2) or three (3) members exclusive of the Chairperson and include both facilities and education personnel.

B. The Director, FMCC, shall convene the Evaluation Committee to review and rank all complete requests received by the deadline for submission. Evaluators should review and complete an evaluation worksheet for each school; except that, a person on the Evaluation Committee shall not review and evaluate a request for a portable classroom submitted:

(1) By or for the Indian tribe in which he or she is a member; the Indian tribe in which he or she's spouse is a member; or, the Indian tribe in which a parent is, or was, a member.

(2) For a school where he or she is employed or over which he or she is the official in charge of or has any line authority over the education functions at that school.

C. Evaluation worksheets should not be tallied in the presence of the Evaluation Committee. The Chairperson shall verify the mathematical computations by the evaluators and tally the worksheets, after the Evaluation Committee has been excused.

D. The Chairperson shall prepare a priority list of school locations based on the ratings by the Evaluation Committee. In the event of ties that may be significant, the school receiving more points under the Safety and Health criterion will rank higher.

E. The Director, FMCC, shall submit the priority list of school locations to the Director, OCM, and the Director, OIEP, for approval.

1.9 Allocation of Portable Classrooms.

A. The Director, OCM, in consultation with the Directors, OIEP and FMCC, shall determine how many schools on the priority list will receive portable classrooms in a given Fiscal Year. The determination will be based on the number of portable classrooms required by schools on the priority list and the amount of appropriated funding available.

B. Portable classrooms will be allocated by meeting all the needs at a given school before proceeding to the next school on the priority list.

1.10 Procurement of Portable Classrooms and Site Preparation.

A. An Indian tribe or tribal organization will be given the option of contracting under P.L. 93-638 for the procurement of portable classrooms allocated at a particular school location and for site preparation. Portable Classrooms must meet Bureau specifications and ownership will be retained by the U.S. Government.

B. The Portable Classrooms furnished under this program may be relocated, at a later time, to another school location if the Directors of OCM and OIEP determine that the unsafe and unhealthy or overcrowding conditions are permanently abated at the original school location.

EXHIBIT 6-B

ILLUSTRATION 1

United States Department of the Interior
Bureau of Indian Affairs

PORTABLE CLASSROOMS INFORMATION SHEET

To be priority ranked for portable classrooms in Fiscal Years 1995 or 1996, Information Sheets must be postmarked or received by (Date) , by the Director, Facilities Management and Construction Center (FMCC), (500 Gold Avenue, S.W., Rm. 8206), P. O. Box 1248, Albuquerque, New Mexico 87103.

-
1. Area and Agency: _____
 2. Name of School: _____
 3. Location Codes:
As assigned by Facilities Management: _____
As assigned by Office of Indian Education Programs: _____
 4. Type of School: _____ Approved Grades: _____
-

5. CERTIFICATION

I/We hereby certify that to the best of my/our knowledge, the information provided herein is accurate and reflects the actual need for portable classrooms at this school location.

* * * * *

School Superintendent/Principal:

Signature

Date

Education Line Officer:

Signature

Date

BIA Agency Superintendent (if applicable):

Signature

Date

6. ISEP Student Counts (Please fill in all requested information or enter "N/A" if not applicable.):

GRADE	1990/91 A.	1991/92 B.	1992/93 C.	1993/94 D.	1994/95 E.
Pre-K					
K					
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
TOTALS					

7. A. Has a grade expansion been formally requested within the last 5 years?
☐ Yes ☐ No If yes, date: _____
- B. Has a grade expansion been approved by the Director of OIEP within the last 5 years?
☐ Yes ☐ No If yes, date: _____
- (Please attach a copy of the approval document.)
8. Present education efficiency of academic classroom space: _____%
 (The FMCC Planning Staff will enter this information from the FACCOM database.)

- 9. A. Does your school have any general classroom space which has been classified as unsafe by the Division of Safety Management?**

☐ Yes ☐ No

- B. If yes, amount of space in square feet: _____ SF**

- C. If yes, can this classroom space be restored to a safe condition?**

☐ Yes ☐ No

- D. If yes, is the restoration of this classroom space in a planned:**

☐ MI&R Project? ☐ FI&R Project? ☐ New Construction Project?

(If there is a budgeted FY 1993, FY 1994, FY 1995 or FY 1996 facilities improvement and repair or new construction project that will address all the classroom safety and health deficiencies or that will provide the additional needed classroom space, your request will not be considered under this program.)

- E. Are the deficiencies entered into the FACCOM Backlog System?**

☐ Yes ☐ No

(To receive credit under the Safety and Health ranking criterion, this information must be entered into the FACCOM Backlog System.)

- F. Number of students utilizing unsafe space: _____

10. A. Has lack of space affected or could it affect your school's accreditation or curriculum?

☐ Yes ☐ No

If yes, explain: (Please limit explanation to space provided.)

con't.

10. A. con't.

10. B. If yes to 10 A., provide the number of students affected by overcrowding as defined by your education standards or accreditation requirements: _____

(Please attach a copy of your accreditation report or other report for your school which supports your answer.)

11. A. Number of portable classrooms requested: _____

B. Proposed use of portable classrooms requested:

<u>Number</u>	<u>Grade Level</u>	<u>Instructional Use</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

12. Availability of Site: Available? ☐ Yes ☐ No

Can site be prepared by present Area, Agency or Location staff without additional staff and/or funds? ☐ Yes ☐ No

Estimated cost of site preparation/development: _____

13. A. Availability of Utilities for Siting Portable Classrooms:				Estimated Cost of Hookup
Water?	<input type="checkbox"/> Yes	<input type="checkbox"/> No		_____
Sewer?	<input type="checkbox"/> Yes	<input type="checkbox"/> No		_____
Electricity?	<input type="checkbox"/> Yes	<input type="checkbox"/> No		_____
Gas or Propane?	<input type="checkbox"/> Yes	<input type="checkbox"/> No		_____

-
-
-
-

- B. Prepare/develop the site under a "P.L. 93-638 Contract?"** ☐ Yes ☐ No

-
- This image shows a single sheet of white paper with horizontal black lines, resembling notebook paper. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

INSTRUCTIONS FOR COMPLETION OF
PORTABLE CLASSROOMS INFORMATION SHEET

To be priority ranked for portable classrooms in Fiscal Years 1995 or 1996, Information Sheets must be postmarked or received by _____ (Date) _____, by the Director, Facilities Management and Construction Center (FMCC), (500 Gold Avenue, S.W., Rm. 8206), P. O. Box 1248, Albuquerque, New Mexico 87103.

The Portable Classrooms Information Sheet is to be completed and certified by the by the Principal, Superintendent or officer in charge of the school, in cooperation with the appropriate Education Line Officer and the appropriate BIA Area or Agency Facility Manager.

The following information is provided to aid in your effort to furnish the most accurate and complete information possible. Be sure to check the information in the FACCOM data base to make sure that it is accurate and up-to-date. Information furnished on this information sheet and information from the FACCOM data base will be used to rank your school. The items are numbered to correspond to the questions on the information sheet.

1. Self-explanatory.
2. Enter the official name of your school.
3. Location codes are the access codes used to locate data in the computer. The Facilities Management code is available from your Area's Facilities Manager and the FMCC Planning Staff in Albuquerque, New Mexico, at (505) 766-8177. The Office of Indian Education Programs location code is available from the OIEP Liaison in Albuquerque, New Mexico, at (505) 766-3850.
4. Please indicate if school is a BIA-operated, a contract (funded by a Public Law 93-638 contract) or a grant (funded by a Public Law 100-297 grant) school. Also, indicate the grade levels which have been approved by the Director of OIEP for the school.
5. Certification: The Information Sheet should be signed by the School Superintendent or Principal and the Education Line Officer. The Information Sheet should also be signed by the BIA Agency Superintendent except for schools in the Navajo Area, the Southern and Northern Pueblo Agencies in the Albuquerque Area, and in the State of Oklahoma.
6. Please enter the ISEP Student Counts for the years shown from your records. It is important that the student counts be broken-down by grades. The information furnished will be used to determine the number of points received under the INCREASED ENROLLMENT criterion.
7. If yes, please enter date of your school's request for grade level expansion. If the request for grade level expansion has already been approved, please

indicate the date and attach a copy of the approval from the Director, Office of Indian Education Programs. If you have added grades to your school without approval of the Director, OIEP, those added grades will not be considered in this evaluation and ranking. You should request approval of this grade expansion as soon as possible.

8. FMCC Planning Staff will enter this information from the FACCOM database. The percentage contained in the FACCOM database will determine the number of points received under the SPACE UTILIZATION EFFICIENCY criterion. It is the responsibility of the location, Agency and/or Area to ensure the information is correct in the FACCOM database.

9. If yes, please complete all items under Item 9. If unsure, please enter "Unknown." To receive credit under the SAFETY AND HEALTH criterion, the deficiencies must be entered in the FACCOM Backlog System prior to the deadline for filing requests for portable classrooms. Therefore, it is important to ensure that the information is correct in the FACCOM database. If there is a budgeted FY 1993, FY 1994 FY 1995 or FY 1996 facilities improvement and repair or new construction project that will address all the classroom safety and health deficiencies or that will provide the additional needed classroom space, your request will not be considered under this program.

If unsafe or unhealthy conditions are documented in the FACCOM Backlog System, the information provided in Item 9.F. will be used to determine the number of points received under the SAFETY AND HEALTH criterion. Only the number of student that occupy the unsafe or unhealthy space during a single class period should be listed. Do not include all students that are "cycled" through the space during a day or a week. You may want to mention how many students are "cycled" through the space during a day or a week under Item 15 Additional Comments.

10. A. If yes, explain how the lack of space has created this problem and/or explain the courses which have been deleted from or were not added to your curriculum because of lack of space. (Please limit explanation to space provided.)

B. If yes to 10.A., provide the number of students affected by overcrowding as defined by your education standards or accreditation requirements. Please attach a copy of your accreditation report or other report with the portion pertaining to overcrowding tabbed and delineated. The number of students and whether your answer is supported by accreditation or other reports will determine the number of points received under the PROGRAMMATIC SPACE REQUIREMENTS criterion.

The information provided in Items 11, 12, 13, and 14 will not be used in and will not have an impact on your request for portable classrooms. The information is to enable the Bureau to estimate costs and determine how many school locations can receive portable classrooms in a given Fiscal Year.

11. Only two basic portable classroom designs will be available: one for Kindergarten and one standard (both will have rest rooms). No special configurations will be provided to support special classrooms such as computer laboratories, science laboratories, or other specialized classrooms.
12. Local Facilities Management staff should provide this information, if unknown.
13. Local Facilities Management staff should provide information regarding existing utility service and/or the estimated cost to provide utilities to the proposed portable classroom site(s).
14. Self-explanatory.
15. In a brief narrative, provide any additional information or justification for consideration by the Evaluation Committee. Please limit comments to space provided.

CONSULTATION ITEM 7

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CONSULTATION ITEM/TOPIC:

Indian Education Work Groups

POTENTIAL ISSUE OR CHANGE:

A Review of OIEP Policies and Practices as they relate to its school systems, goals and objectives and funding constraints is underway to present to tribes for input in determining what future OIEP Policies and Practices should be.

REASON FOR PROPOSING ISSUE OR CHANGE:

The Congress is currently considering Reauthorization of the Elementary and Secondary Education Act. As a result, three Working Groups led by the Directors of OIEP and the Interior Office of Policy Analysis, are currently reviewing Indian education policies and practices. Changes in those policies and practices may result. Therefore, the OIEP is seeking comment from Indian Country to assist in determining the direction of this review, the direction in which any changes should take and in how this review process may be improved/changed and options for considered.

CURRENT OPTION(S) BEING CONSIDERED BY THE BUREAU:

The review may result in changes in Education policies and practices relating to:

- A. School Systems**
- B. Goals and Objectives**
- C. Funding Constraints**

BACKGROUND

=====

During the early part of 1994, Congress will be considering the reauthorization of the Elementary and Secondary Education Act (ESEA), including Indian education programs. In order to examine associated policy issues which encourage good educational practices (as identified by studies including: Indian Nations at Risk and the White House Conference on Indian Education, as well as practices identified in the Goals 2000: Educate America Act), the Assistant Secretary - Indian Affairs and the Assistant Secretary - Policy, Management and Budget have asked the Director, Office of Indian Education Programs and the Director, Office of Policy Analysis to co-chair a number of informal Indian education work groups.

Although some of the individual practices have gone through the consultation process for tribal input, the comprehensive package as a single unit has not. This package will be available at the consultation meetings for review and input by the tribes. We actively seek your input, recommendations, and prioritization of policies, practices and options. Those recommendations may be presented during the consultation meetings, or as written comments following the meetings.

The following are guiding principles which the Director, Office of Indian Education Programs requested the working groups follow in their review of the educational practices and policies which are identified in documents such as the Indian Nations at Risk, the White House Conference on Indian Education and the Goals 2000: Educate America Act:

1. Respect and support the policy of tribal self-determination.
2. Respect and support local control in Indian Education, recognizing that local control includes local decision-making and is a key component in tribal self-determination.
3. Allow for greater flexibility and accountability at the local level.
4. BIA education is here to stay and will remain in the Department of the Interior.
5. Every effort will be made to continue the efforts to improve the quality of education offered Indian students in Bureau funded and public schools and programs.

6. BIA education as a national school system is complex in nature with different school types that often educate students with special needs.
7. Keep in mind the broad perspective and relationships between activities within OIEP and Indian education outside of OIEP as well as education in general in the United States.
8. Resources, especially funding, are limited with real budget constraints.
9. Be open, creative and innovative when determining options and recommendations.
10. Consider the current body of knowledge in Indian education, including research, reports, and conference results at the local, tribal, state, and national levels.

We encourage tribes and individuals to look carefully at the information, options, and work group recommendations contained in the working drafts of these policy papers.

9 FEB 1994

MEMORANDUM

To: All Education Line Officers
All Division Chiefs, Office of Indian Education Programs
Regional Tribal Consultation Team Members

From: Director, Office of Indian Education Programs

William Melnyk, Jr.

Subject: Indian School Equalization Program Formula and Accountability Indicators for
BIA-funded schools: Agenda Items #1 and #2 Consulted on during the October
1993 Consultation Meetings -- A Status Report

INTRODUCTION: This report provides a summary of comments received from consultation participants regarding the items listed above and describes actions being taken or being planned regarding these topics.

BACKGROUND: These two items were included because of congressional interest in improving the current methodology being used to fund school operations and concerns from the field about the adequacy of the current ISEP formula. The concerns have been related to the level of funding, the extent to which the current formula meets the special needs of different schools and dormitories, and the effect of standards, statutes, and regulations on school operations. Additional concerns are related to the current constraints on Federal funding and the effects of the recent shortfall in funding.

Following the August consultation meetings, OIEP arranged an Inter-Agency Personnel Agreement under which K. Forbis Jordan and Teresa S. Lyons would conduct a comprehensive study of the current methodology for funding BIA schools and develop recommendations for improving the funding system. (Jordan is a professor at Arizona State University and Lyons is an assistant professor at University of Nevada/Las Vegas.) Jordan has had extensive experience in the development of funding methodologies for systems of schools and has been involved in four previous studies of BIA schools. Jordan and Lyons have recently completed a national study of funding of at-risk youth. Lyons has had extensive experience with the operation and funding of programs for students with disabilities. This study was initiated on September 7, 1993, and is scheduled for completion on August 15, 1994.

The inclusion of these two items in the October Consultations was for the purpose of securing comments on the planned study design from tribal groups and field administrators. The study process includes a National Working Group whose purpose is to provide counsel and reactions to the ISEP Study Team. Following review by BIA and Department of Interior personnel and meetings with congressional staffers, the study design has been revised three times since the original submission in August, 1993.

The ISEP Study Team has submitted data requests to all schools and has selected a list of nominees for the 10-12 site visit schools. These nominees have been selected on the basis of several criteria including type, location, size, program, and other special characteristics.

CONSULTATION MEETING COMMENTS: The initial phase of the proposed study design called for input from Indian country. A series of specific questions were asked about both the design of the ISEP Study and the identification of accountability indicators for BIA-funded schools. Comments varied in their specificity; some were narrowly focused on specific problems and others were broad and general. For purposes of this report, the comments have been summarized in broad general terms.

A total of 723 comments were recorded and coded in the consultation process on these two items, including 129 written statements. Of the total comments, 594 oral public comments were received during the eleven (11) consultation meetings distributed by location as follows:

Aberdeen	78	Gallup	51
Albuquerque	33	Bemidji	75
Anchorage	30	Oklahoma	16
Billings	27	Phoenix	24
Eastern	36	Portland	117
		Sacramento	107

ACCOUNTABILITY

The consultation packet contained a brief discussion of planned work of the ISEP Study Team related to identification and selection of accountability indicators for schools. The primary concerns related to this item were the role of school boards and tribal governments in the selection of indicators, relevance of national standards to BIA schools, irrelevance of nationally normed standardized tests to BIA-funded schools, special indicators related to the uniqueness of Indian youth and Indian education, and the need for accountability at all levels from the Congress to the individual schools and classrooms. In general, the commentators appeared to be supportive of the concept of accountability, but had some reservations concerning the process for selecting indicators and the potential punitive use of indicators.

FUTURE ACTIONS

Based on the comments from the consultation meetings, input from the National Working Group, directions from the appropriation committee, interests of the authorizing committees, and support at the budget and policy level in the Bureau of Indian Affairs and the Department of Interior, the OIEP has continued with its efforts to conduct a study of the ISEP formula. The ISEP Study Team has had a meeting with the National Working Group, met with different BIA personnel, and continued with various planning and research activities related to the study. Site visits to schools are scheduled for the spring, and data gathering efforts have been initiated.



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Washington, D.C. 20240



IN REPLY REFER TO

Indian Education
PO&E - 532

9 FEB 1994

MEMORANDUM

To: All Education Line Officers
All Education Division Chiefs
Regional Tribal Consultation Teams

From: Director, Office of Indian Education Programs *William Melby*

Subject: Status Report on October 1993, Tribal Consultation Items
3 - (Alaska Native Education) and 5 - Exceptional
Education Regulations

The purpose of this report is to provide feedback to all interested parties concerning what actions this office has taken or intends to take on these consultation items since the October 1993, Tribal consultation meetings. Each Education Line Officer is to provide a copy of this update to each Tribe and school board within his/her region.

Consultation Item #3 - Alaska Native Education:

Purpose of Item #3 - This item was designed to gain feedback from Indian Country on the possibility of the Bureau again funding Alaskan Native schools. Previously, the Bureau has funded Alaskan Native schools but ceased that practice in FY 85.

Comments Made During Consultation:

There were 145 comments collected on this item at the consultation meetings. Of those comments received, nearly all were concerned with funding. The overwhelming majority of the commentators felt that they had no problem with the Bureau funding Alaskan schools as long as none of the schools in the lower 48 would experience a shortfall in funding as a result.

Some of the commentators indicated that they felt that the Bureau should request separate funding for the Alaska schools. Some of the commentators in Alaska indicated that they were unaware that there was a possibility of the Bureau resuming funding.

Many of the commentators from the lower 48 states were in full agreement that the Bureau should provide funds to the Alaska

schools to meet its trust responsibility. They were emphatic that this should be accomplished with funds over and above those earmarked for schools outside of Alaska.

Future Actions:

The results of the October 1993, consultation meetings with regard to this item have been provided to Alaska task force for consideration. Additionally, the Office of Indian Education Programs (OIEP) will consider those comments when formulating future budget requests.

Consultation Item #5 - Exceptional Education Regulations:

Purpose of Item #5:

The purpose of this item was to gain feedback from Indian country regarding proposed rule 25 CFR Part 45, as written.

Comments Made During Consultation:

There were 111 comments collected on this item. Most of the participants were in favor of the proposed rule, however, there were some participants who were concerned about the implementation of the regulations. Others felt that the language was too confusing, but were not specific as to where the confusion was found.

Some participants felt that there needs to be more coordination between early childhood programs and Bureau funded exceptional education programs. Still others shared their concerns about the timely distribution of Special Education funds.

There were concerns shared by the participants regarding whether or not the Bureau would provide adequate funding for training of those involved in the delivery of services and parents of students receiving services.

Future Actions:

The Bureau is reviewing 25 CFR Part 45 to rectify any confusing language and then process for publication in the Federal Register for further comment prior to publication as a final rule.

If there are any questions regarding Item 3, please feel free to contact Dr. James Martin at (202) 208-3550, or Mr. John Reimer at (202) 208-3562. Written questions may be mailed to:

US Department of the Interior
Bureau of Indian Affairs
Office of Indian Education Programs
Branch of Research/Policy Analysis
1849 C St. NW., MS 3512 - MIB
Washington, DC 20240

Should there be any questions regarding Item 5, please feel free to contact Dr. Dennis Fox at (202) 208-7388, or the Branch of Exceptional Education at (202) 208-6675. Written questions may be mailed to:

US Department of the Interior
Bureau of Indian Affairs
Office of Indian Education Programs
Branch of Exceptional Education
1849 C St. NW., MS 3512 - MIB
Washington, DC 20240



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

26 JAN 1994

Memorandum

To: All Area Directors
All Education Line Officers
All Division Chiefs, Office of Indian
Education Programs
Regional Tribal Consultation Teams

From: Director, Office of Indian Education Programs
Acting Director, Office of Construction Management

Subject: Status Report on October 1993 Tribal Consultation Item
Number 4 - P. L. 101-301 "Miscellaneous Indian Law
Amendments"

The purpose of this report is to provide feedback to all interested parties concerning what action(s) the Office of Indian Education Programs (OIEP), the Office of Construction Management (OCM) and the Office of Facilities Management and Construction Center has taken or plans to take on this particular consultation item since the consultation meetings in October 1993. Each education line officer is to provide a copy of this update to each tribe and school within his/her jurisdiction.

Consultation Item #4 - Public Law 101-301 "Miscellaneous Indian Law Amendments"

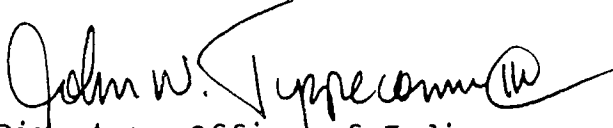
Purpose of Item #4 - P. L. 101-301 "Miscellaneous Indian Law Amendments" amended P. L. 100-297 to clarify that tribes and authorized tribal grant schools were permitted to request that Congressionally appropriated funds for Facilities Operation and Maintenance; Minor Improvement and Repair (Health and Safety Abatement); Major Facilities Improvement and Repair and Facilities Construction funds for elementary and secondary education be included in grants as authorized by P. L. 100-297. A team comprised of representatives of tribal P.L. 100-297 grant schools, the Office of Indian Education Programs, the Office of Construction Management, the Department of Interior's Office of the Solicitor and the Bureau's Facilities Management Construction Center and Contracts and Grant's offices was established to develop recommended implementation procedures.

As a result of the team's efforts, the Bureau was proposing to incorporate into the P.L. 100-297 process, 43 CFR Part 12 - Single Audit Act and Administrative and Audit Requirements and Cost Principals for Assistance Programs, as the procedures of applying for construction and certain other facilities accounts.

Comments made during consultation - Although not all commentators were familiar with the provisions of 43 CFR Part 12, it was recognized that procedures were being incorporated into the P.L. 100-297 grant process for Indian tribes and tribal organizations to include facilities construction funds in their P.L. 100-297 school grants. With only one exception there was no opposition to the proposal to incorporate these procedures. The use of the grant process for facilities construction projects was viewed favorably and as a feasible method for securing funds for the stated purposes and as an effort which enhances self-determination.

Some of the comments were basically questions seeking clarification of the proposed process. Many comments indicated a dissatisfaction with the current process, particularly the delays. Suggestions were made that negotiations be initiated early and other actions taken to prevent delays. Prevention of delays was a point of emphasis.

Future Actions - The team has subsequently met and developed recommended procedures incorporating 43 CFR Part 12 into the P.L. 100-297 grant process. The recommendations are currently under review in the Bureau and Department. It is anticipated that a determination will be made by the end of January 1994 whether procedures can be implemented as recommended by the team or whether administrative changes are necessary and whether remedial legislation may be necessary.


Director, Office of Indian
Education Programs


Acting Director, Office of
Construction Management



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

26 JAN 1994

Memorandum

To: All Area Directors
All Education Line Officers
All Division Chiefs, Office of Indian
Education Programs
Regional Tribal Consultation Teams

From: Acting Director, Office of Construction Management
Director, Office of Indian Education Programs

Subject: Status Report on October 1993 Tribal Consultation Item
Number 6 - Alternative Funding Methods for Construction
of Indian Schools

The purpose of this report is to provide feedback to all interested parties concerning what action(s) the Office of Construction Management (OCM) and the Office of Indian Education Programs (OIEP) has taken or plans to take on this particular consultation item since the consultation meetings in October 1993. Each education line officer is to provide a copy of this update to each Tribe and school within his/her jurisdiction.

Consultation Item #6 - Alternative Funding Methods for Construction of Indian Schools

Purpose of Item #6 - In the Fiscal Year 1994 House Report regarding Interior Appropriations, Congress directed:

In recent years, several tribes have asked that authority be provided to enter into a lease arrangement with the Bureau under which the tribe would construct a facility with a guaranteed annual lease payment from the Bureau to pay back the costs of construction. The Committee requests the Bureau and Department to conduct a study of how such a program could be accomplished, and what legislative and administrative changes would have to be implemented prior to undertaking such a program. The study should be submitted to the appropriate authorizing and the Appropriations Committee by April 1, 1994.

Even before Congress requested the study, the Department had been exploring ways of making the limited appropriated funding for Indian school construction go further. Long-term leasing was only one alternative funding method.

In conducting the study, the Department was proposing to analyze not only long-term leasing, but also other alternative methods of financing which might warrant further development. The study was included as a consultation item to seek reaction to the study and study approach and to receive comments and recommendation.

Comments Made During Consultation - A total of 134 individual verbal and/or written comments were recorded for this item during the eleven (11) regional consultation meetings. Comments were generally supportive of the study. Commentors were in favor of anything that might result in more facilities for Indian schools. Some of the comments were requesting clarification about how alternative methods of financing Indian schools might operate. Some of the comments made, particularly some of the negative comments, did not so much address this consultation item specifically as other problems with the facilities program.

Question #1

The first question asked regarding Consultation Item #6 was: Is the study approach identified above a reasonable way of proceeding? If so, what alternative methods of funding reimbursement, and administration should be studied? What potential advantages, problems and solutions exist for each of these alternatives?

Other than the methods discussed during presentation of the consultation item--long-term leasing, bonding and guaranteed loans--no other alternative methods were suggested. A concern expressed at many locations was how projects would be prioritized. What would be the impact on the priority list for new schools construction currently maintained by the BIA? There was concern that poorer tribes would be at a disadvantage.

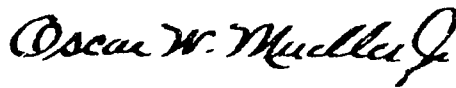
Question #2

The second question asked was: What alternative study approach, if any, should be considered? There was concern about the lack of tribal representation on the study group. Probably the most negative comment expressed about this consultation item was objection to "another study." Commenters were particularly concerned about the costs of conducting studies. However, no alternative study approaches were suggested.

Future Actions - Based on the comments received the Department and BIA are proceeding with the expanded study approach addressing not only long-term leasing as a method of paying back tribes costs of construction of Indian schools, but also other potential methods of alternative financing of Indian schools. As directed, the completed study is scheduled to be submitted to the appropriate authorizing and the Appropriations Committee by April 1, 1994.



Director, Office of Indian
Education Programs



Acting Director, Office of
Construction Management

NATIONAL SUMMARY OF COMMENTS MADE DURING
OCTOBER, 1993 TRIBAL CONSULTATION MEETINGS

During October, 1993 the Bureau of Indian Affairs, Office of Indian Education Programs conducted eleven regional Tribal consultation meetings across Indian country. The regional meetings were facilitated by four Tribal consultation teams consisting of Tribal representatives, education line officers and program specialists from the Office of Indian Education Programs and the Office of Construction Management. The October, 1993 Tribal Consultation Booklet presented six (6) education items for discussion during the regional consultation meetings.

Table I shows that more than 400 individuals attended the regional consultation meetings and that a total of 1,346 verbal/written comments were received by the Office of Indian Education Programs on the consultation items as of November 22, 1993. Table I also provides a breakdown of the number of comments received on each consultation item per meeting site.

Each regional Tribal consultation team issues a Summary Regional Team Report which describes the conduct of each meeting it conducted. The Summary Regional Team Reports also review the content of the comments made and make recommendations on what future actions should be taken on the consultation items. Copies of the Summary Regional Team Reports for October, 1993 can be obtained by contacting the Branch of Planning, Office of Indian Education Programs at 202-208-3550.

This document provides an analysis of the content of all the comments and from a national perspective. All verbal and written comments received by the Office of Indian Education Programs were encoded into a national consultation comment data base and used in development of the national summary.

Table I shows that the total 1,346 comments were received as follows:

Item 1 - Indian School Equalization Program	538 Comments
Item 2 - School Accountability	191 Comments
Item 3 - Alaska	144 Comments
Item 4 - PL 101-301 Implementation	106 Comments
Item 5 - Proposed Exceptional Education Regulations	110 Comments
Item 6 - Options for Funding School Construction	133 Comments
Other - Comments addressing other items/issues	<u>124 Comments</u>

Total Comments - 1,346

11/23/93

TABLE I

NUMBER OF COMMENTS MADE DURING
OCTOBER, 1993 TRIBAL CONSULTATION MEETINGS
BY CONSULTATION ITEM BY MEETING SITE

Site	No. Parti- cipants	Total Comments	Item 1	Item 2	Item 3	Item 4	Item 5	Item 6	Other
Albuq	28	82	26	7	7	6	20	11	5
Anchor	42	125	6	24	54	7	5	8	21
Aberdn	45	158	61	17	4	28	2	26	20
Bills	10	102	24	3	8	9	9	5	44
Eastrn	5	61	29	7	5	5	10	5	0
Minn	67	112	55	20	5	8	4	6	14
Navajo	129	101	39	12	12	5	11	12	10
Oklaho	17	44	8	8	15	4	3	6	0
Phnx	13	36	22	1	1	1	3	2	6
Portl	32	171	85	32	11	11	21	11	0
Sacra	42	143	85	22	5	6	8	13	4
Writtn	0	211	98	38	17	16	14	28	0
Totals	430	1346	538	191	144	106	110	133	124

Item 1 - Indian School Equalization Program
 Item 2 - School Accountability
 Item 3 - Alaska Education Issues
 Item 4 - Implementation of PL 101-301
 Item 5 - Exceptional Education Regulations
 Item 6 - Optional Funding Methods for School Construction

CONSULTATION ITEM 1 - INDIAN SCHOOL EQUALIZATION PROGRAM FORMULA

A total of 538 comments were received on this item. Depending on the content, the comments were clustered into five (5) categories of comments.

Category I

14%

A total of 75 (14%) of the 538 comments spoke directly about the need for the proposed study of the ISEP formula. Examples were:

- Why does the Congress want to do another ISEP study?
- Use the results of previous studies, \$3499 per WSU

Category II

35%

Another 187 (35%) of the comments identified specific factors in the formula that should be reviewed. Examples were:

- Teacher salary costs, DODDs pay scale needs review
- Isolation of school is a factor
- ISEP student count procedures need revision
- ISEP funds need to follow transferring students
- Need to rewrite Intensive Residential Guidance and Gifted and Talented regulations/procedures
- ISEP inadequate for student field trips, textbooks
- ISEP inadequate for student transportation costs
- No provisions for vocational education programs

Category III

24%

A total of 131 (24%) of the comments indicated that the overall budget process and appropriation levels themselves need to be studied, rather than just the ISEP formula. Examples were:

- Mandated salary increases are not linked to appropriations
- ISEP funding fluctuates greatly from year to year
- Congressional mandates require funds to implement
- BIA budget projections for ISEP have not been close
- ISEP formula distributes funds OK, it's just under-funded
- ISEP formula need should drive appropriation levels

Category IV

13%

Another 70 (13%) of the comments indicated that the BIA must be cognizant of certain relationships which impact local Tribal communities and BIA funded schools. Examples were:

- Don't compare Federal schools directly to public schools
- Grant and contract schools differ from BIA operated schools
- The National Advisory Group being proposed for the ISEP

- study is not representative of Indian country.
- The concept of matching funds is not acceptable to Indian country
- Education is a trust responsibility of the BIA
- Don't undermine Tribal sovereignty

Category V

14%

Finally, 75 (14%) of the comments were categorized as relating to other issues.

Total 100%

From a national perspective, 35% (Category II) of the comments made by meeting participants identified specific factors that should be reviewed during the ISEP study. The meeting participants also indicated that accounting for such factors in the study's design would make the study results more meaningful to local Indian communities.

Of particular importance, Categories I, III and IV yielded 51% of the total comments on this consultation item and raised serious concerns over (1) the need or purpose of the study, (2) the overall budget process and total level of annual ISEP funding and (3) certain local Tribal relationships that impact schools. The meeting participants expressed considerable concern that the National Advisory Group to the study is not truly representative of Indian country.

CONSULTATION ITEM #2 - SCHOOL ACCOUNTABILITY

A total of 191 comments were received on possible school quality or accountability indicators for BIA funded schools/dormitories. The clustering of comments produced five (5) categories of comments.

Category I

38%

A total of 72 (38%) of the 191 comments identified possible indicators for school accountability. Examples were:

- Parental involvement and Indian culture
- Indian America 2000 Goals
- Effective schools correlates
- Accreditation status
- Student enrollment and attendance rates
- Use current yearly monitoring/evaluation process
- Student achievement/test scores

Category II

9%

Another 18 (9%) of the 191 comments expressed general agreement with the concept of schools being accountable and/or asked questions to clarify the Bureau's questions. Examples were:

- Support accountability, it's needed
- What is meant by a more active BIA role?

- Need accountability at all levels
- Will inability to meet indicators result in reduced funding for a school?
- Will funds be provided to implement the indicators?

Category III

17%

A total of 32 (17%) of the comments indicated that specific groups and/or issues affect the overall accountability process at any given school location. These local issues are complex. Meeting participants stated that these groups/issues, such as inadequate ISEP funding, must be addressed first before any lasting improvements will be seen. Examples were:

- Local school boards are not listened to
- BIA-OIEP should be involved in school budgeting
- BIA-OIEP involvement is a step backwards
- Need adequate funding in ISEP before improvements in accountability will be seen
- BIA should first properly fund ISEP, then monitor school budgets

Category IV

25%

Another 48 (25%) of the 191 comments on this item stated preferences between national and local accountability standards/indicators. The meeting participants stated that Tribes, school boards and local Indian communities should establish local accountability standards and not let Washington, DC set standards for them. Examples were:

- Indian Self-Determination is important to Tribes
- Contract/grant schools can set own policies/indicators
- Local communities should decide what's relevant in their schools
- Days of Federal paternalism are over
- National Advisory Group on ISEP study needs local educators on it
- Opposed to the development of or need for national level standards/indicators: this is a local decision.

Category V

11%

Finally, 21 (11%) of the comments were categorized as relating to other issues.

Total 100%

From a national perspective, almost one-half of the total number of comments received on this item (Categories I and II = 47%) show that the meeting participants viewed school accountability as an integral part of a school system's total operation. Another 42% (Categories III and IV) of the meeting participants' comments

expressed specific concern that (1) there are local situations and issues that must be addressed first and (2) any indicators of success must be set by the local community itself.

CONSULTATION ITEM #3 - ALASKA EDUCATION ISSUES

A total of 144 comments were received on a study of Alaska Native education. The comments were clustered into six (6) categories.

Category I

14%

A total of 21 (14%) of the 144 comments expressed support for the rights of Alaska Natives.

- The Bia should consult with Alaska Natives
- Alaska Natives are Native peoples too
- Support PL 100-297 school grants for Alaska
- Let's support Alaska Natives

Category II

23%

Another 33 (23%) of the comments expressed a concern that ISEP must be increased if Alaska schools are approved for funding. Examples were:

- Don't compromise ISEP funding in lower 48 states
- Don't touch present ISEP funding for our schools
- Don't dig into lower 48 funds
- Current ISEP funds can't absorb any Alaska students

Category III

8%

A total of eleven (8%) of the comments stated that a separate funding category should be established for Alaska schools by the Congress. Examples were:

- Need separate appropriations for Alaska
- Recommend new appropriations for Alaska schools
- Develop separate funding for Alaska

Category IV

21%

Another 30 comments (21%) presented statements or questions to clarify certain aspects of the Alaska education issue. Examples were:

- How many students in Alaska schools?
- How many Alaska schools are involved?
- What will be the cost for the Alaska Task Force and who pays for it?
- What do the Alaska Tribal resolutions say?

Category V

32%

A total of 46 comments (32%) expressed particular needs in Alaska. Examples were:

- The curriculum is not right for Native students
- It is a positive move to return B. . to Alaska

- Discrimination in Alaska public schools is bad
- Small schools are being closed in Alaska
- State does not recognize special problems

Category VI

2%

Finally, three comments were categorized as addressing addressing other issues.

Total 100%

From a national perspective, more than 30% of the comments (Categories II and III) received on this item addressed an overall funding concern involving the addition of Alaska schools with the current level of ISEP funds. Another 32% of the comments (Category V) reflected specific educational needs in Alaska. Finally, about 35% of the comments (Categories I and IV) expressed support for the Alaska Native situation and/or asked specific questions to clarify the issues in Alaska.

CONSULTATION ITEM# 4 - IMPLEMENTATION OF PL 101-301 FACILITIES PROCEDURES

A total of 106 comments were received on a draft set of procedures to be used in awarding construction and other facility management funds through education grants under PL 100-297, as amended by PL 101-301. The clustering of comments produced the following categories of comments.

Category I

18%

A total of 19 comments (18%) expressed general support for the proposal/concept to include facility management\ construction funds in education grants. Examples were:

- Endorse putting construction funds in education grants
- Can't wait - proceed with this approach
- National Indian School Board Association supports this approach
- Hoopa supports the proposal

Category II

26%

Another 27 comments (26%) expressed specific additions, corrections or deletions to the proposed grant procedures Examples were:

- Procedures don't allow for growth
- Limit approval criteria to what's in PL 100-297
- Define the term construction
- Procedures need to be more understandable

Category III

27%

A total of 29 comments (27%) expressed general questions about the budget process or the proposed procedures. Examples were:

- Does this apply to contract schools?

- Will indirect cost funds be increased?
- How long to get funds under this approach?
- How will administrative cost funds be determined?

Category IV

29%

Another 31 comments (29%) expressed general statements on the budget process or the proposed procedures.

Examples were:

- BIA should request separate fund for contract and grant schools
- With \$500 million backlog, St. Stephens will get new school in 2084
- New construction takes 10 or 15 years
- Can't continue current delays

Total 100%

There was overall support for the proposal to include facilities improvement and repair and facilities construction funds within education grants. Categories III and IV (56% of the comments) provide specific budgetary and procedural concerns that the meeting participants expressed.

CONSULTATION ITEM# 5 - EXCEPTIONAL EDUCATION REGULATIONS

A total of 110 comments were received on a draft set of exceptional education regulations. The clustering of comments produced the following categories of comments.

Category I

6%

A total of 7 comments (6%) expressed general support for the proposal to update the regulations. Examples were:

- Support changes and updates
- Agree with proposal to update regulations

Category II

64%

A total of 70 comments (64%) provided specific questions or statements or suggestions on the language in the proposal. Examples were:

- FACE program needs to be coordinated with Special Education
- Disagree with discipline guidelines
- Section 45.44 is unclear
- 15 hour ISEP requirement creates a problem
- Need clarification on bilingual and speech impaired

Category III

6%

A total of 7 comments (6%) expressed general questions on the proposed concept or procedures. Examples were:

- New ISEP funding for New weights?

- Status of Special Education students in public schools?
- Is BIA ever going to address behavioral disorders?
- Must ISEP funds be used before PL 92-142 funds?

Category IV

24%

A total of 26 comments (24%) expressed general statements\ comments on the concept of the proposed regulations.

Examples were:

- Extra funding should come with Special Education mandates
- Opposed to regulations, this is unfunded mandates
- The BIA should not fund schools who violate regulations
- Not enough funds are available for personnel

Total 100%

More than 75% (Categories I, II and III) of the comments on the proposed exceptional education regulations specified general support, needed clarifications in the language or specific questions concerning the language and will be helpful in revising the document.

CONSULTATION ITEM # 6 - OPTIONAL FUNDING METHODS FOR SCHOOL CONSTRUCTION

A total of 133 comments were received on the proposal to explore other methods of funding for the construction of schools. The clustering of comments produced the following categories of comments.

Category I

13%

A total of 17 comments (13%) expressed general support for the concept or proposal to explore other funding methods.

Examples were:

- Supports new construction efforts
- Need alternative sources of funding for schools
- Supports alternative funding for new school construction
- Idea is good, current system not working
- Support idea of study

Category II

46%

A total of 61 comments (46%) expressed specific questions/ statements about the study design or the proposal.

Examples were:

- After study, lay out options to all
- Indian schools have no alternative funding source
- Support proposal as a viable approach for Tribes
- What kind of interest rate will be allowed?

Category III

11%

Another 15 comments (11%) expressed general questions about the proposal or concept of optional funding sources.

Examples were:

- How realistic is this proposal from OCM's viewpoint?
- How will this affect previously private schools?
- Will there be protection to ensure regular payments?
- Who actually pays, BIA or GSA?

Category IV

30%

Finally, a total of 40 comments (30%) expressed general statements on the concept or proposal. Examples were:

- Grant schools get more consideration than BIA operated
- Have problem with local needs VS what things BIA-Albuq. will allow
- No need for another study
- Need assurance that BIA will have funds to pay lease
- Need BIA loan guarantee for funding
- Need new facility now - have a rodent problem

More than 70% of the comments (Categories I, II and III) provide both general and specific statements on the design of the study on alternative funding methods for school construction. Another 30% of the comments focus on general perceptions of the meeting participants towards the proposed study.



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Washington, D.C. 20240



IN REPLY REFER TO:

Indian Education
Code 532

9 FEB 1994

MEMORANDUM

To: All Tribal Consultation Meeting Participants
From: Acting Director, Office of Indian Education Programs
Subject: Update on the Status of Previous Consultation Items

First, I would like to welcome each of you to participate in the March 1994 Tribal Consultation meeting. As you know, meetings are again being held across the country to involve tribes, school officials and other interested parties in open discussions and joint deliberations with respect to potential issues or changes in Indian education programs. We hope that each of you will take this opportunity to present issues or proposals regarding any changes which you may wish to see implemented in current practices or programs. I will assure you that these issues or proposals will be considered for future action by the Office of Indian Education Programs (OIEP).

In an attempt to keep our constituents apprised of the status of items which have been previously consulted upon, we are attaching a table indicating the current status of these items beginning with the January 1991 consultation meetings.

The regional consultation team at your tribal consultation meeting will be glad to try to answer any question you may have concerning the status of these items. If you have additional questions, please feel free to contact Dr. James Martin, at (202) 219-1131 or 208-3550 or write to U.S. Department of the Interior/OIEP, MS-3512-MIB, Code 532, 1849 C Street, NW, Washington, DC 20240.

Thank you for your past, present and future participation in the tribal consultation meetings.

William Melby Jr.

Attachment

SUMMARY OF PREVIOUS CONSULTATION ITEMS

CONSULTATION ITEM	DATE	NEXT STEP	ACTION TAKEN	STATUS
1991				
1. Adult Education Regs - Proposed Rule Br. of Post Secondary	Jan 91	Publish proposed rule that reflects Consultation comments.	Proposed regulations are in the Department of Interior Approval Process.	Pending
2. Higher Education Regs- Proposed Rule Br. of Post Secondary	Jan 91	Publish proposed rule that reflects Consultation comments.	Proposed regulations have received Department of Interior Approval.	Complete
3. Early Childhood Program - Proposed Rule Br. of Elementary and Secondary Education	Jan 91	Publish proposed rule that reflects Consultation comments.	Proposed regulations are under review in the Office of the Solicitor.	Pending
4. Academic Standards - Proposed change in Testing Procedures Br. of Monitoring and Evaluation	Jan 91	Publish proposed rule that reflects Consultation comments.	Proposed regulations are in the Department of Interior Approval Process.	Pending
5. Program Eligibility Br. of Elementary and Secondary Education	Jan 91	Definition of Indian in above regulations are being changed to reflect Consultation comments.	Proposed regulations are in the Department of Interior Approval Process.	Pending
6. Chapter I - Proposed Formula Br. of Supplementary Services	Jan 91	Implement new formula.	Implemented new formula in SY 1991 - 1992	Complete
1. ISEP Changes: Grades 7/8; Smaller School Adjustment; IRG & Bilingual clarification; Gifted/Talented, etc. Br. of Administration	July 91	Publish proposed rule change reflecting Consultation comments.	Adjustments were made according to Congressional Mandate for grades 7/8; G/T, small sch. adjustments; IRG and Bilingual --- Clarification in progress.	Complete
2. Academic standards to propose changes to waiver dormitory standards and to add immunizations Br. of Monitoring and Evaluation	July 91	Publish proposed rule change reflecting Consultation comments.	Proposed rule is being routed through system for the Assistant Secretary - Indian Affairs signature.	Pending

3. Long Range Plan Br. of Planning	July 91	Revised and submitted for additional consultation.	Resubmitted for Consultation in July, 1992.	Pending
4. JOM - Student Eligibility Br. of Elementary and Secondary Education	July 91	Proposed rule change reflecting Consultation comments.	Proposed regulations are in the Department of Interior Approval Process.	Pending
1992				
1. Academic Standards to strengthen language/culture; alternative High School Programs; Testing. Br. of Monitoring and Evaluation	Jan 92	Publish proposed rule change that reflects Consultation comments.	Proposed rule is being routed through system for the Assistant Secretary - Indian Affairs signature.	Pending
2. JOM - Eligibility of Contract and Grant Schools Br. of Elementary and Secondary Education	Jan 92	Consensus that contract and grant schools be included only if appropriations are increased.	Judicial determination was made that approximately 39 previously private schools were included in the '93 JOM count.	Complete
3. ISEP - (A) Student transportation formula and (B) Exceptional Education student definitions changes Br. of Administration Br. of Exceptional Education	Jan 92	(A) Transportation report sent to Congress on 11/24/92. Proposed rule change to ISEP regs needed. (B) Proposed changes brought about by P.L. 102-119, again consulted on in October, 1993.	Proposed rule is being routed through system for the Assistant Secretary - Indian Affairs signature.	Pending
4. ISEP Formula - A 1991 study of the effectiveness of the ISEP formula in meeting academic/residential requirements Division of Planning, Oversight and Evaluation	Jan 92	None.	Results of study presented to Assistant Secretary - Indian Affairs in August of 1991 for implementation in the 1994 budget request. Subsequent decisions were made to conduct an additional study. Additional Consultation conducted in July and October, 1993.	Complete

5. Long Range Plan and Education Goals <u>Br. of Planning</u>	Jan 92	Indian America 2000 plan has been modified to incorporate consultation comments and suggestions.	Indian America 2000 Goals finalized in 1992. As the present administration's Goals 2000: Educate America Act is signed into law, the Indian American 2000 goals and long range plan will be amended.	This is a continual and on-going item.
6. Alternative methods of Distribution of Adult and Higher Ed. Funds <u>Br. of Post Secondary Education</u>	Jan 92	OIEP will not proceed with this proposal.	Concept not implemented due to introduction of Tribal Budget System.	Complete
1. FY 1995 Education Budget-Tribal Priorities <u>Br. of Planning</u>	July 92	BIA proposes FY 1995 Budget.	Consultation results presented to Director, OIEP for use in budget formulation process.	Complete
2. Student Tuition (Haskell/SIPI) <u>Division of Administration</u>	July 92	OIEP will not proceed with this proposal.	Not Applicable.	Complete
3. ISEP - Bilingual Education, IRG and Student Count <u>Division of Administration</u>	July 92	Consultation comments will be reviewed and considered for possible revision of 25 CFR, Part 39 by a special committee.	Proposed rule change not yet submitted for clearance. The latest ISEP Study may affect final disposition of this item.	Pending
4. Advocacy of Public School Students <u>Division of Education Programs</u>	July 92	OIEP will strengthen relationships with state Depts. of Education, US Dept. of Ed., etc..., which are a part of the Policy Statement set forth in 25 CFR Part 32.	Proceed with improving external relationships and developing partnerships with advocacy groups.	Item On-going
5. AVT - Discus. to move AVT from OIP to OIEP <u>Division of Education Programs</u>	July 92	OIEP will not proceed with this proposal.	Not Applicable.	Complete
6. Standards - Philosophy and Requirements <u>Br. of Monitoring and Evaluation</u>	July 92	25 CFR will be revised.	Proposed rule change is in clearance process.	Pending

705

786

1993

1. Amendments to P.L. 100-297 <u>Br. of Research and Policy Analysis</u>	Jan 93	To extend Grant Authority for JOM, Higher Ed., and Adult Education to tribes.	P.L. 103-325 authorized Grant Authority to tribes for Higher Education programs. Grant Authority for JOM and Adult Ed. to tribes is being reviewed.	Pending
2. Space Guidelines <u>Office of Construction Management</u>	Jan 93	Review of consultation results and issue revised draft space guidelines.	Revised draft Space Guidelines to be distributed for additional comment in December, 1993.	Complete
3. Full Inclusion of Students with Disabilities <u>Br. of Exceptional Education</u>	Jan 93	Policy statement to be issued from OIEP.	Policy statement being drafted.	Pending
4. Americans with Disabilities Act <u>Br. of Exceptional Education</u>	Jan 93	No further action will be taken on this proposal.	Not Applicable.	Complete
5. Reauthorization of Elementary and Secondary Education Act Programs <u>Division of Education Programs</u>	Jan 93	Based on comments received from the tribes during the consultation meetings, the AS/IA requested by letter dated 4/9/93 to the Dept of Education that appropriations procedures remain the same for BIA programs.	The Department of Education submitted its formal reauthorization proposal to the Congress in September, 1993.	Complete
6. School Boundaries <u>Division of Administration</u>	Jan 93	Based on the comments received during consultation meetings, the Bureau is considering a study of the attendance boundary problem.	Consideration is still being given to the study; no decision has been reached.	Pending
7. ORBS "At Risk" Student-Isep Weight <u>Division of Administration</u>	Jan 93	The Bureau has convened a task force to study ISEP -- Will include "At Risk" facets of ORBS.	Current ISEP Study is being conducted during the 1993-94 SY	Pending
1. Programs available for American Indian and Alaska Native students <u>Division of Education Programs</u>	July 93	To use comments made by Indian Country in planning future initiatives.	A data base of proposed comments/improvements is available for OIEP use.	Complete

2. Tribal Consultation Dates <u>Division of Planning, Oversight & Evaluation</u>	July 93	To conduct Tribal consultation meetings in 1994 during March and October.	In 1994 Tribal Consultation meetings are being held during March and October.	Complete
3. Inclusion of ISEP & TCCCs funds in Self-Governance Compacts <u>Director, OIEP</u>	July 93	Recommendation made to the AS-IA.	Director, OIEP has recommended that ISEP/TCCC funds not be included in Self-Governance Compacts.	Complete
4. ISEP Formula <u>Division of Administration</u>	July 93	To proceed with a study of the ISEP Formula	The study will be conducted during the 1993-94 SY	Complete
1. ISEP Study <u>Office of Indian Education Programs (OIEP)</u>	Oct 93	To keep Indian Country updated on progress of study	The study is being conducted during the 1993-94 SY	Complete
2. School Accountability <u>Office of Indian Education Programs (OIEP)</u>	Oct 93	To keep Indian Country updated on progress of study	The study is being conducted during the 1993-94 SY	Complete
3. Alaska Native Education <u>Branch of Research/Policy Analysis</u>	Oct 93	Consultation results have been distributed to all members of the Joint Alaska Task Force	The National consultation results have been provided to the Alaska Task Force members	Complete
4. PL 101-301 Grants <u>Office of Construction Management and OIEP</u>	Oct 93	To amend the current P.L. 100-297 grant process to include facility funds.	Written procedures and grant documents are being revised.	Pending
5. Special Education 25 CFR Part 45 <u>Branch of Exceptional Education</u>	Oct 93	To issue a proposed rule in the Federal Register.	Consultation comments are being incorporated into the proposed rule.	Pending
6. Alternative Funding for school construction <u>Office of Construction Management</u>	Oct 93	To issue a report to the congress on alternative funding methods for school construction	As of January 1994, the report is being prepared.	Pending

789

790

LOCAL CONTACTS

Meeting information may be obtained from persons having responsibility for meetings in specified states as follows:

CALIFORNIA	<i>Fayette Babby</i>	<i>916/978-4680</i>
NEW MEXICO	<i>Val Cordova</i>	<i>505/766-3034</i>
	<i>Lester Hudson</i>	<i>505/368-4427</i>
MINNESOTA	<i>Betty Walker</i>	<i>612/373-1090</i>
WASHINGTON	<i>Van Peters</i>	<i>503/230-5682</i>
SOUTH DAKOTA	<i>Neva Sherwood</i>	<i>605/856-4478</i>
OKLAHOMA	<i>Jim Baker</i>	<i>405/945-6051</i>
ALASKA	<i>Robert Pringle</i>	<i>907/271-4115</i>
ARIZONA	<i>John Wahnee</i>	<i>602/738-2262</i>
MONTANA	<i>Larry Parker</i>	<i>406/657-6375</i>
VIRGINIA	<i>Lena Mills</i>	<i>703/235-3233</i>